

Meeting of:	Cabinet
Date of Meeting:	Monday, 27 September 2021
Relevant Scrutiny Committee:	Homes and Safe Communities
Report Title:	Request to Appeal Non-Determination of Planning Application Relating to Maes y Ffynnon, Bonvilston
Purpose of Report:	To seek Cabinet approval to appeal the non-determination or refusal (as necessary) of the planning application 2019/01031/RG3 at Planning Committee on the 1st September 2021, relating to 10no. new Council homes at Maes y Ffynnon, Bonvilston (the Scheme).
Report Owner:	Cabinet Member for Housing and Building Services
Responsible Officer:	Miles Punter - Director of Environment and Housing
Elected Member and Officer Consultation:	Miles Ingram, Head of Housing and Building Services Marcus Goldsworthy, Head of Regeneration and Planning Victoria Robinson, Operational Manager for Planning and Building Control Stephen Butler, Principal Planner Nathan Slater, Senior Planner James Docherty, Principal Lawyer
Policy Framework:	This report is within the policy framework and budget and is a matter for Executive decision by Cabinet.
Executive Summary:	<ul style="list-style-type: none"> • This report brings to the attention of Cabinet, a proposal to seek authority to appeal the non-determination or refusal (as necessary) of a planning application relating to Maes y Ffynnon, Bonvilston. • The planning application relates to the proposed delivery of 10no. much needed new Council homes, including older persons accommodation, in the Wenvoe ward. • At its meeting on the 1st September 2021, Planning Committee Members failed to determine the planning application and could not provide a valid planning reason to refuse the application. • The matter then was deferred for a future Planning Committee for consideration.

Recommendation

1. That Cabinet delegates authority to the Head of Housing and Building Services or the Housing Development Programme Manager on behalf of 'Housing and Building Services' [the applicant] to appeal the non-determination or refusal (as necessary) of the planning application relating to Maes y Ffynnon, Bonvilston.

Reason for Recommendation

1. To ensure that the development proposal is considered by an independent planning inspector in the event that the Planning Committee either fail to determine or refuse the application in the hope that planning permission can be secured for much needed affordable housing.

1. Background

- 1.1 Planning application (ref 2019/01031/RG3) at Land to the North of Maes Y Ffynnon, Bonvilston for the construction of 10 affordable residential units and associated works, was submitted to the Vale of Glamorgan Council as Local Planning Authority by Housing and Building Services on 19th September 2019. It was initially considered at a meeting of Planning Committee on 15th July 2020 with an officer recommendation for approval, but it was deferred at that time pending the outcome of a village green application. The Village Green application was dismissed and the matter was again reported to Planning Committee on the 1st September 2021 with an officer recommendation for approval.
- 1.2 At the Planning Committee meeting on the 1st September 2021, a motion to approve the application in accordance with officer recommendation failed by seven members to six. However, those Members who voted against the approval (indicating they wished to refuse the application) could not when questioned at that meeting provide a substantiated valid planning reason for refusal.
- 1.3 Thereafter the Planning Committee resolved to defer the matter for the applicants to consider submitting alternative proposals to address Member's concerns and/or for the Members of Planning Committee voting against approval to consider planning reasons for refusal of current scheme.
- 1.4 Subsequently, at its' meeting on the 3rd September 2021, the Strategic Housing Board took a decision to appeal the non-determination or refusal (as necessary) of the planning application, subject to the correct governance being in place to do so and Cabinet approval.

2. Key Issues for Consideration

- 2.1** The Scheme, provides 10no. much needed new Council homes on a former disused garage area and 'brownfield site' in the ownership of the HRA, within the Bonvilston settlement of the Wenvoe ward and comprises:
- 4 X 1-bedroom general needs apartments
2 X 1-bedroom older persons apartments
4 X 2-bedroom general needs houses
- 2.2** In its evolving design and feasibility, colleagues in housing, finance, planning, highways and drainage teams were consulted and their comments were incorporated into a Scheme that proposed an optimum number of 10 new Council homes for the former garage site.
- 2.3** A planning application for 10 units was submitted and validated on the 19th September 2019, supported by reports relating to Ecology, Drainage, Site Investigation, Arboriculture, etc.
- 2.4** Immediately, the local community submitted a Village Green application.
- 2.5** At its meeting on the 15th July 2020, the Planning Committee deferred a planning decision relating to the Scheme until such time as the Village Green application had been determined.
- 2.6** On the 6th June 2021, an independent Inspector determined the land contained within the Village Green application did not meet the criteria to be considered a Village Green under legal statute and dismissed the community's application, finding in favour of the Housing Department. Subsequently, the Council acting on the Inspector's recommendation, dismissed the Village Green application on the 15th June 2021.
- 2.7** The Scheme returned to Planning Committee on the 1st September 2021 and despite an Officers recommendation to approve, a majority of 7 Members of Planning Committee voted against the approval (indicating they wished to refuse the application) but could not when questioned at that meeting, provide a substantiated valid planning reason for refusal. Thereafter the Planning Committee resolved to defer the matter for the applicants to consider submitting alternative proposals to address Members' concerns and/or for the Members of Planning Committee voting against approval to consider planning reasons for refusal of current scheme.
- 2.8** Dissenting Members suggested that the scheme should not be resubmitted to Planning Committee unless it contained substantially less dwellings. However, this would severely affect the financial viability of the Scheme and be unaffordable. A Scheme of fewer dwellings would also be a less attractive commercial prospect for potential bidders at tender stage. Furthermore, as planning officers have indicated that the submitted scheme is acceptable in

planning terms, it would be a poor use of public resources to replan for a less efficient scheme that would deliver fewer affordable housing at a time when affordable housing need has never been greater.

- 2.9** A detailed Grounds for Appeal Statement is contained at APPENDIX 1.
- 2.10** The Schemes pre-tender cost estimate is £1.45 million, which would have been met from the S106 Affordable Housing contributions generated in the Wenvoe ward.
- 2.11** The Scheme layout is provided at APPENDIX 2, with the contextual elevation and perspective views at APPENDIX 3, 4 and 5, which can be seen to be extremely sensitive to and reflect the architectural context of the existing homes on this former Council estate.
- 2.12** The proposed Scheme layouts and unit types are compliant with the space standards mandated by Welsh Government's new Welsh Development Quality Requirements (WDQR) 2021, Lifetime Homes and Secured by Design Standards.
- 2.13** The proposed Scheme would be highly energy efficient, achieving a minimum of EPC 'A' rating (SAP 92), employing a 'fabric first' approach, with innovative non-fossil fuel space heating and domestic hot water systems, in line with the Councils' and Welsh Governments' decarbonisation agenda.
- 2.14** The new Council homes will be offered to applicants from the housing waiting list via the Council's Homes4U scheme and controlled by a Local Lettings Policy, to ensure the sustainability of the Scheme and provide opportunities for applicants with a local connection to Bonvilston to be prioritised.
- 2.15** If the report recommendation is endorsed and an appeal against non-determination is submitted to the Planning Inspectorate, it should be noted that the Planning Committee will need to agree a stance (i.e. should the application have been approved or refused). In these cases, Section 78A of the Town and Country Planning Act 1990 provides that the Local Planning Authority may determine an application for planning permission during an additional period of 4 weeks, even though an appeal had been made to the Welsh Ministers. If the Local Planning Authority gives notice that its decision is to refuse the application, then the appeal is treated as an appeal under Section 78 (1) of the Act and the person making the appeal is given the opportunity to revise their grounds of appeal and the procedure for the appeal. If the Local Planning Authority gives notice that its decision is to grant the application, then the person or organisation making the appeal still has the opportunity to proceed with the appeal against the grant of the application subject to conditions and also to revise their grounds and the procedure.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1** Looking to the long term - The Housing Business Plan allocates significant resource, some £234 million, towards the development of new Council homes over the next thirty years. The Council plans to complete a minimum of 500 new Council homes by 2026. Further homes will be considered for development where development could be made viable by including other tenure models to cross-subsidise the development of homes at social rent. In this way the Council could further add to the overall numbers of affordable homes in the borough without adversely impacting on the Housing Business Plan.
- 3.2** Taking an integrated approach - In April 2018, Welsh Government announced an independent review of affordable housing supply in Wales. The purpose of which was to examine whether more can be done to increase the supply of affordable housing in Wales, maximising the resources available in order to meet the clear commitment to deliver 20,000 affordable homes during this term of Government. The Council is committed to working with Welsh Government, its housing partners, communities and the private sector in maximising the delivery of affordable housing in the Vale.
- 3.3** Involving the population in decisions - In arriving at a decision to provide new affordable housing, the Council will fully consult with its tenants and residents on development proposals and consider their responses, from the feasibility stage through to the determination of the planning application and when the Scheme is being delivered.
- 3.4** Working in a collaborative way- The Council has strong established links with a number of Housing Associations which make a significant contribution to housing supply in the Vale. It is important that this continues, and it is not the Council's intention to compete with Housing Associations. Therefore, the Council intends to work alongside our partners and envisages a complimentary approach to the delivery of affordable homes.
- 3.5** Understanding the root causes of issues and preventing them - The Local Housing Market Assessment (LMHA) 2019 highlighted the chronic shortage of affordable housing in the Vale of Glamorgan. In assessing the housing market as a whole, the LMHA calculates the net need for affordable housing, including social rented housing, intermediate rented housing and low-cost home ownership housing products, over the coming years. This assessment projects the headline annual need for affordable housing in the Vale of Glamorgan to be 890 units per annum between the years 2019 to 2024. The LMHA identified an overwhelming need for all types and tenures of affordable housing in the Vale. The Council has recognised this and is acting to invest significantly in new Council homes and enable housing association development.

- 3.6** This proposal:
- Meets the relevant Strategic Objective 3 of the Corporate Plan 2020-25
 - Meets the Objectives 1-5 of the Well Being Plan 2018-23
 - Meets all the Strategic Aims 1-4 of the Local Housing Strategy 2015-20 (currently under revision)
 - Meets Strategic Objectives 1-4 of the Housing Development Strategy 2019-24

4. Resources and Legal Considerations

Financial

- 4.1** Failure to determine the planning application will have a detrimental effect on the Housing Business Plan 2021/22, causing the Scheme to be further delayed and creating an underspend which will have to be accommodated in future years.
- 4.2** The cost of preparing the appeal can be met within the existing Housing Development budget. It will be proposed that the Planning Inspectorate determine the appeal via written representations procedure to limit costs.

Employment

- 4.3** There are no other resource issues to report at this time.

Legal (Including Equalities)

- 4.4** Legal Services have been consulted to ensure that there are sufficient governance arrangements in place to allow the Council to appeal the non-determination or refusal as necessary by Planning Committee, of a planning application submitted by one of its' own Directorates.
- 4.5** The Housing Development Team will continue to liaise with Legal Services on all legal matters concerning the Scheme with the Legal Department putting in place the necessary 'Chinese Walls' arrangements to enable advice to be provided in line with the professional rules that the Legal Department adhere to.
- 4.6** In terms of equalities should the Scheme proceed, there will be training and employment opportunities for local people offered as part of the main works contract and in accordance with the Welsh Governments 'Value Wales' Toolkit.

5. Background Papers

Planning Officer Report to Planning Committee on 1st September 2021

<https://www.valeofglamorgan.gov.uk/Documents/Living/Planning/Committee/2021/Planning-Committee-Report-01-September-2021.pdf>

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The Planning Inspectorate
Crown Buildings
Cathays Park
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**Grounds for Appeal: Non-Determination of Application 2019/01031/RG3 -
Construction of 10 affordable residential units and associated works on Land
to the North of Maes Y Ffynnon, Bonvilston**

Dear Sir / Madam,

On behalf of the Vale of Glamorgan Council's Housing and Building Services Department, who are the applicant for application 2019/01031/RG3, an appeal is lodged under Section 78 (2a) of the Town and Country Planning Act 1990 (as amended) against the Vale of Glamorgan Council, in its role as Local Planning Authority (LPA), who have not given notice to the applicant of their decision on the application.

Application Background

The application (2019/01031/RG3 refers¹) was initially submitted to the LPA on 18th September 2019 and was subsequently registered as valid on 19th September 2019. The 14th November 2019 was identified as the day a determination on the proposal should be received from the LPA. Following the statutory consultation period, the LPA requested additional amendments and the period for determining the application was extended to the 31st January 2020 to allow the amendments to be included. This was extended a further two times as negotiations between the applicant and the LPA continued to include further amendments to address issues raised by Highways, Drainage and Ecology. This resulted in the application being considered on 15th July 2020 Planning Committee².

In the subsequent period from when a valid application had been submitted until the application was considered at the first Planning Committee, an application to register the land as a Town or Village Green under Section 15 of the Commons Act 2006 (App No.01/2019/VG50- refers) had been progressed on the proposed development site. Although the LPA Case Officer had recommended the application for approval (Appendix 1 refers), Planning Committee concluded to defer the

¹ Available on LPA register - <https://vogonline.planning-register.co.uk/PlaRecord.aspx?AppNo=2019/01031/RG3>

² 15/07/2020 Planning Committee Minutes p.2 refers -
https://www.valeofglamorgan.gov.uk/Documents/_Committee%20Reports/Planning/2020/20-07-15/Minutes.pdf

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decision on the planning application while the subsequent village green application submitted on the development site was resolved. The applicant accepted this deferral as the outcome of the Village Green could prevent the proposal being developed due to the legal implications surrounding spaces classified as village greens. However, during discussions at Planning Committee, Councillors also raised concerns which related to the following issues:

- Moving Plots 1 – 6 forward to increase the size of the rear gardens;
- The loss of trees and perceived inadequacy of their replacement on site;
- Extending the width of approach footpaths to allow disabled access to proposed buildings and linking to parking spaces.

These concerns were addressed during the interim period following the first Planning Committee deferral and the outcome of the Village Green application. A covering letter was submitted to the LPA on 18th June 2021 outlining the response to the Planning Committee's initial concerns and included amended plans which addressed the concerns (Appendix 2 refers).

Regarding the Village Green Application, an Independent Inspector held a public inquiry on 19th April 2021 and the published a report (Appendix 3 refers) on 6th June 2021 recommending the Vale of Glamorgan Council to dismiss the Village Green application, concluding:

- a) Registration would be incompatible with the statutory purposes for which the Land is held by the Objector.
- b) User has been “by right” rather than “as of right” of the physical “green” which is the only part of the Land over which there has been sufficient user for lawful sports and pastimes.

The Village Green Report and its recommendations were considered by Public Protection Licensing Committee on Tuesday, 15th June 2021³ where it was resolved to accept the recommendation of the Village Green Report and dismiss the Village Green application. Consequently, the part of the development site identified as informal amenity space does not benefit from the legal classification as a Village Green.

Following the outcome of the Village Green process and the amendments made to the proposal based upon Councillors' concerns, the application was considered at a second Planning Committee on 1st September 2021⁴. A transcript of the Planning

³ Minutes from Public Protection Licensing Committee -
https://www.valeofglamorgan.gov.uk/Documents/_Committee%20Reports/Licensing-Public-Protection/2021/21-06-15/Minutes.pdf

⁴ 01/09/2021 Planning Committee Minutes p.8-9 refers -
https://www.valeofglamorgan.gov.uk/Documents/_Committee%20Reports/Planning/2021/21-09-01/Minutes.pdf

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Committee discussion on the application has been produced (Appendix 4) which highlights the key issues raised which relate to this appeal. The full recording of the Planning Committee can be viewed using the following link:

<https://www.youtube.com/watch?v=BOPmT897f3k&list=PLzt4i14pgqIEYTpGwpnqhxyllskR95ke&index=1&t=6538s>

Despite an Officer's recommendation to approve, a majority of 7 Members of Planning Committee voted against the approval (indicating they wished to refuse the application) but could not, when questioned at that meeting, provide a substantiated valid planning reason for refusal. Thereafter the Planning Committee resolved to defer the matter for the applicants to consider submitting alternative proposals to address Member's concerns and/or for the Members of Planning Committee voting against approval to consider planning reasons for refusal of current scheme.

Reasons for Appeal

The appeal is lodged based upon the LPA not making a decision on the application resulting in the application being deferred for a second time.

The original application was recommended for approval subject to conditions but was deferred to await the outcome of a Village Green Application. Although the applicant accepted the deferral in this instance it should be noted that the village-green application is a non-planning procedure. The procedure for village green applications do not have a definitive determination period and decisions can take time. However, in this instance the village green process covered a period of 20 years before the planning application was submitted. This meant the outcome of the planning application could not affect the decision of the village green application. If the village green application was successful, the applicant would not be able to carry out the proposed development even if planning permission had been granted. If development had started the applicant would be responsible for returning the land back to its original state which was identified as a potential risk to the applicant but not considered a material planning consideration.

The amended application which was considered at the second Planning Committee was also recommended for approval subject to conditions (Appendix 5 refers). The reasons given for the recommendation to approve the proposal are summarised below:

- **Location:** Site lies within the defined settlement boundary of Bonvilston identified as a minor rural settlement in the adopted LDP. The proposal is located in a low-risk flood zone (Zone A). Part of the site is classified as previously development land and it is considered to be within a sustainable location within walking distance of several bus stops that receive regular services to and from larger settlements.

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- **Need for Affordable Housing:** The Vale of Glamorgan Housing Strategy Team originally noted there was a need for 213 dwellings within the Wenvoe Ward. Since the application has been under consideration this has dropped to 196 dwellings but still represents a need for additional affordable housing in the ward area. Additionally, the most recent monitoring data for the adopted LDP (1st April 2021) demonstrates the plan has fallen short of the Annual Monitoring Report target of 1,646 affordable dwellings delivered by 2021 by 24 dwellings. This further demonstrates there is still a need to deliver affordable housing provision in the Vale of Glamorgan.
- **Open Space:** The proposal would result in the loss of 0.18ha of informal amenity space. 0.1ha of the wider site would remain as public open space and this would still leave the ward of Wenvoe with a surplus of at least 1.4 hectares of amenity greenspace. In addition, more than half a hectare of POS will be created on the nearby allocated housing site (which is currently under construction). Residents of Maes-y-Ffynnon would be able to walk to the new POS in roughly five minutes.
- **Density:** The proposal would represent a high-density development of 33 dwellings per hectare (dph) above the minimum density requirements set out in the LDP. However, LDP Policy MD6 does support higher densities where the development reflects the character of the surrounding area and would not unacceptably impact upon local amenity.
- **Amenity Space Provision:** Plots 1, 7, 8, 9 and 10 would meet or exceed the SPG's standards, but the other plots would fall short of them. Specifically, plot 2 would have a deficit of 30 square metres and plots 3, 4, 5 and 6 would have a shared deficit of 45 square metres. Nonetheless, on balance there is considered to be an appropriate level of amenity space to serve the dwellings and flats. It should be noted that although not every dwelling would meet the Council's SPG standards for amenity space, all dwellings do exceed the minimum requirements for affordable housing schemes as outlined by the Welsh Government which is 40sq.m.
- **Siting, Design & Materials:** The proposal adequately reflects the existing form and massing of residential properties along Maes Y Ffynnon and includes a similar design scheme.
- **Streetscape:** Although several trees will be removed from the site, the roadside verge would remain. The side elevation of plot 1 would still likely be visible but it was considered this area of Maes Y Ffynnon would maintain its green corridor character.
- **Trees:** The proposal would result in the loss of 7 trees. However, 12 replacement trees will be planted to mitigate this loss. Although this falls short of the 2:1 planting ratio required by the Trees, Woodlands, Hedgerows and Development SPG, it was considered that the amended layout appropriately balances the need to have useable private and public amenity space, having regard to the existing trees which are being retained on the site and the space required for the existing and proposed trees to grow and not be compromised.

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- **Neighbouring properties:** It was considered the development proposal, subject to conditions, would have an acceptable effect on neighbours' residential amenity, judged in terms of natural light, outlook, peace and quiet, and privacy.
- **Highways:** The proposal seeks to improve the existing road layout by; increasing the radius of the bend near the access junction to Maes Y Ffynnon; the section of road near the junction would be widened to six metres; the rest of the cul-de-sac road would be widened to 5.5 metres; a rumble strip would be created just before a new turning head. Additionally, 14 parking spaces are provided to support the proposed development which is considered appropriate based on likely parking demand and traffic levels.
- **Ecology:** The proposal was recommended for approval with conditions to address ecology issues and it also passed the three licencing tests for European Protected Species.
- **Drainage:** The proposal was recommended for approval with conditions to address drainage issues.

The LPA has had 23 months to consider the application and has been unable to make a decision on the proposal following two Planning Committee discussions on the application, with a clear substantiated officer recommendation for approval. The applicant considers the LPA has had sufficient time to determine the proposal and does not accept the reasons for deferral in this instance. The applicant's submitted supporting information and the Case Officer's recommendation for approval demonstrates the material planning considerations have been considered fully and appropriately. Consequently, it is considered unreasonable to defer a decision on the application for a second time as there are no further material considerations to be assessed which would evidence why the Planning Committee consider the proposal to be unacceptable.

The proposal has already been amended in response to some Members of Planning Committee's concerns or additional evidence submitted to explain why the requested changes could not be made. The further request for amendments goes significantly beyond the original request for amendments discussed at the first Planning Committee and the applicant considers the requested amendments are not required to make the proposal acceptable in planning terms. Furthermore, the additional amendments would result in the development being financially unviable which was highlighted during the second Planning Committee discussion and would undermine the Council's strategic delivery of affordable housing to meet housing need in the Vale of Glamorgan.

Conclusion

The applicant considers that the LPA have had sufficient time to consider the application and to determine the reasons for approval or refusal. Regarding the

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request for an amended scheme this is not considered to be required to make the current proposal acceptable in planning terms.

In light of the reason outlined in this statement, the application respectfully considers that the appeal should be allowed, and Planning Permission is granted.

If further information is required, please do not hesitate to get in contact.

Yours sincerely

A handwritten signature in black ink, appearing to read "Nathan Slater".

Nathan Slater
Date: 15/09/2021

List of Appendices:

- Appendix 1 - Officer Report to First Planning Committee 15-07-2020
- Appendix 2 - Amended Application Covering Letter and Amended Plans
- Appendix 3 - Village Green Report Maes Y Ffynnon Bonvilston
- Appendix 4 - VoG Planning Committee Transcript for 2019-01031-RG3
- Appendix 5 - Officer Report to Second Planning Committee 01-09-2021

2019/01031/RG3 Received on 19 September 2019

Applicant: Housing and Building Services, Vale of Glamorgan The Alps, Alps Quarry Road, Wenvoe, CF5 6AA

Agent: Mr Nathan Slater Dock Offices, Subway Road, Barry, CF63 4RT

Land to the North of Maes Y Ffynnon, Bonvilston

Construction of 10 affordable residential units and associated works

REASON FOR COMMITTEE DETERMINATION

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application is for a major development by the Council.

EXECUTIVE SUMMARY

This is an application for full planning permission to build 10 affordable ('social rented') dwellings and associated works including improvements to the adopted highway and 'soft' and 'hard' landscaping.

For policy purposes, the site is in the defined settlement of Bonvilston (a 'minor rural settlement' in the LDP's settlement hierarchy) and Flood Zone A (little or no risk of flooding from rivers and the sea).

Technical advisers do not object to the proposal, but members of the public express concern over several aspects of the proposal.

Officers conclude that the development proposal is acceptable in principle and would have an acceptable effect on visual amenity, residential amenity, highway safety, ecology, drainage and environmental health.

It is recommended that planning permission be granted with conditions.

SITE AND CONTEXT

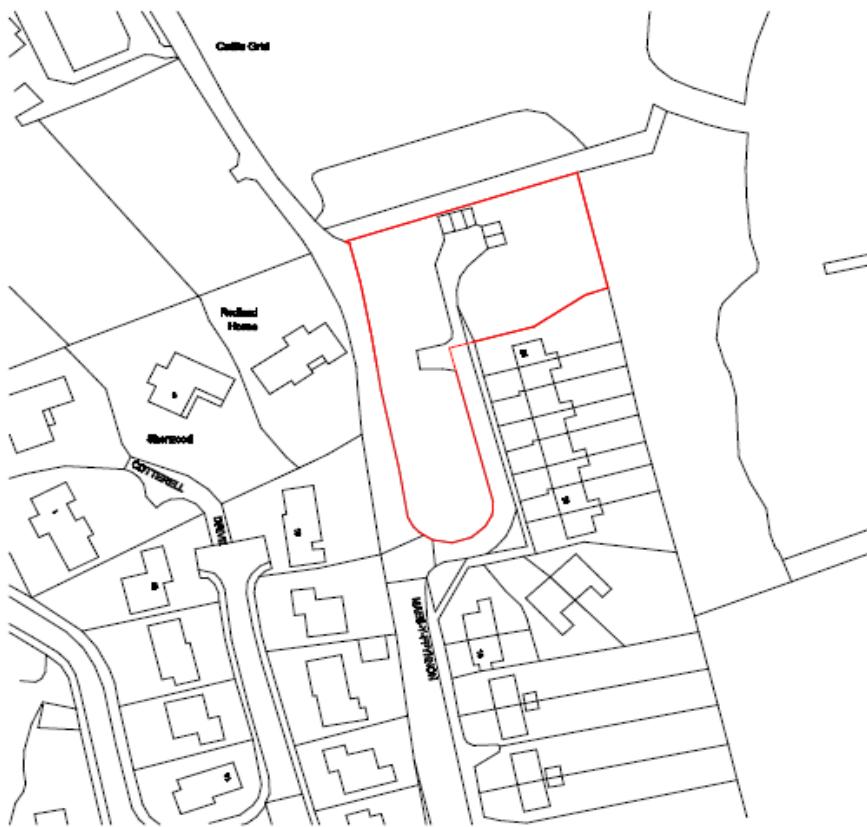
Roughly 0.3 of a hectare in area, the application site is a mix of informal amenity space and hard-surfaced land (private garages that once occupied the 'hard' land were demolished before the planning application was submitted). The land rises slightly from west to east. The site is at the end of a cul-de-sac and is next to several houses, undeveloped land and an adopted highway (Maes-y-Ffynnon).

For policy purposes, the site is in the defined settlement of Bonvilston (a 'minor rural settlement' in the LDP's settlement hierarchy) and Flood Zone A (little or no risk of flooding from rivers and the sea).

It is next to the Ely Valley & Ridge Slopes Special Landscape Area (SLA), a mineral safeguarding area (limestone, category one) and a public right of way (ref. B2/11/1).

It is near, but not in, the Bonvilston Conservation Area and an LDP housing allocation (policy MG2(40): 'Land east of Bonvilston').

A group of trees on the southern part of the site is the subject of a tree preservation order (TPO) (ref. 364-2010-03-G01), and two trees on the northern part of the site are the subject of individual TPOs (refs. 364-2010-03-T001 and 364-2010-03-T002).



DESCRIPTION OF DEVELOPMENT

This is an application, submitted by the Housing and Building Services Department for the Vale of Glamorgan Council, for full planning permission to build 10 affordable dwellings. Associated works would include improvements to the adopted highway and 'soft' and 'hard' landscaping.

The 10 affordable ('social rented') dwellings would consist of four two-bedroomed houses and six one-bedroomed flats (two of which would be reserved for persons at least 55 years old).



Context Elevation

The developed site would consist of four two-storey buildings (each either 8 or 8.3 metres tall). The buildings would be finished with brown clay plain roof tiles, white UPVC casement windows and fascias / soffits / bargeboards, black upvc rainwater goods, white colour roughcast render, red facing brick (to plinth), GRP Door canopies and chimneys and composite external doors with glazed panels.



The (amended) application documents indicate that:

- the buildings, parking spaces and turning head would be in the northern part of the site, where the garages used to be;
- each house would have its own back garden, whereas the flats would have shared gardens;
- the developed site would have 14 parking spaces for residents of the development (two spaces for each house and one space for each flat);
- the existing road would be widened to 5.5 metres (measured from the nearer edge of the existing footway);
- the junction of the cul-de-sac and the main part of Maes-y-Ffynnon would be improved to provide better visibility and easier access for drivers of emergency-services vehicles;
- 22 trees – six of which are covered by TPOs - would be removed from the site;
- 14 new trees would be planted on the site.

Proposed Site Layout



Appendix 1

House type 1



House type 2



House type 3



PLANNING HISTORY

1989/00578/REG5: Residential Development. (Regulation 5) - Decision: approved

2010/00113/RG4: Outline application for residential development of land for 3 houses (Minute number C89) - Decision: withdrawn

CONSULTATIONS

St. Nicholas and Bonvilston Community Council was consulted and did not comment on the proposal (but it did comment on the proposal during the statutory period of pre-application consultation overseen by the applicant).

Cllr I. Perry of St. Nicholas and Bonvilston Community Council expressed his wish for the planning committee to determine the application.

Wenvoe Community Council was consulted but did not comment on the proposal.
Highway Development (highway authority) was consulted and did not object to the (amended) proposal.

The **Public Rights of Way Officer** was consulted and did not object to the proposal, but has advised that the Public Right of Way must be kept open and available for safe use by the public at all times. The applicant should ensure that materials are not stored on the

Public Right of Way and that any damage to the surface as a result of the development is made good at their own expense.

The **Drainage Section** was consulted and confirmed that the developer would have to apply to the council – the ‘SuDS approval body (SAB)’ - for approval of drainage arrangements for surface water (this is a non-planning procedure).

Environmental-health officers (Shared Regulatory Services (SRS) were consulted and made the following observations:

Noise

Recommended that planning permission carry conditions about construction working hours and a construction environment management plan (CEMP).

Contaminated Land, Air & Water Quality

Recommended that planning permission carry conditions about unforeseen contamination, imported soil, imported aggregates and the use of site-won materials.

The **Ecology Officer** was consulted and initially objected to the proposal because mature trees would be lost and not replaced and because information relating to bats was out of date. The Countryside team later confirmed that the updated information about bats was acceptable.

Housing Strategy was consulted and supported the proposal, stating that it would help to meet the Vale’s need for affordable housing.

Dŵr Cymru Welsh Water (DCWW) was consulted and stated that existing infrastructure has no capacity for the development proposal. It recommended that planning permission carry a pre-commencement condition about drainage arrangements for foul water. Importantly, the suggested condition may require the applicant to pay for a ‘Developer Impact Assessment’ before DCWW carries out reinforcement works to accommodate the development proposal’s foul water.

Natural Resources Wales (NRW) was consulted and did not object to the (amended) proposal. It did, however, state that the proposal must pass the three licensing tests set out in the Conservation of Habitats and Species Regulations 2017.

South Wales Police was consulted but did not comment on the proposal.

Wenvoe Ward Member was consulted and no comments have been received to date.

Cllr Leighton Rowlands requested that the planning committee has a site visit.

REPRESENTATIONS

The neighbouring properties were consulted on 27th September 2019, site notices were displayed on 30th September 2019 and the application was advertised in the press on 10th October 2019.

To date, the planning authority has received **27 letters of representation** in which members of the public expressed concern over:

- The location of the rumble strip;
- Parking;
- Traffic;
- Road safety;
- Amount and density of development;
- Loss of green space (described as a play area and village green);
- Actual demand for affordable housing in the area;
- Overdevelopment of Bonvilston (this proposal in combination with other housing schemes);
- Effect on wildlife;
- Loss of trees;
- Effect on Bonvilston Conservation Area;
- Drainage;
- Whether the proposal is the best use of the land;
- Maintenance arrangements;
- The age of some of the application documents (surveys, for example);
- Local bus services (which are said to be infrequent and expensive);
- Effect of building work on residents;
- Overall effect on the character of the area (more houses, loss of green space, more parked cars).

REPORT

Planning Policies and Guidance

Local Development Plan:

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

Strategic Policies:

POLICY SP1 - Delivering the Strategy

POLICY SP4 – Affordable Housing Provision

POLICY SP10 - Built and Natural Environment

Managing Growth Policies:

POLICY MG1 - Housing Supply in the Vale of Glamorgan

Managing Development Policies:

POLICY MD1 - Location of New Development
POLICY MD2 - Design of New Development
POLICY MD3 - Provision for Open Space
POLICY MD4 - Community Infrastructure and Planning Obligations
POLICY MD5 - Development within Settlement Boundaries
POLICY MD6 - Housing Densities
POLICY MD7 - Environmental Protection
POLICY MD8 - Historic Environment
POLICY MD9 - Promoting Biodiversity

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 10, 2018) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales,

The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 - People and Places: Achieving Well-being Through Placemaking,

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places
- Promoting Healthier Places
- Accessibility
- Previously Developed Land
- Supporting Infrastructure

Chapter 4 - Active and Social Places

- Transport
- Living in a Place (housing, affordable housing and gypsies and travellers and rural enterprise dwellings)
- Community Facilities
- Recreational Spaces

Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)
- Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a de-risking approach)

Technical Advice Notes:

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 2 - Planning and Affordable Housing (2006)
- Technical Advice Note 10 - Tree Preservation Orders (1997)
- Technical Advice Note 11 - Noise (1997)
- Technical Advice Note 12 - Design (2016)
- Technical Advice Note 20 - Planning and the Welsh Language (2017)
- Technical Advice Note 24 - The Historic Environment (2017)

Supplementary Planning Guidance:

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG documents are relevant:

- Affordable Housing (2018)
- Biodiversity and Development (2018)
- Model Design Guide for Wales
- Parking Standards (2019)
- Planning Obligations (2018)
- Residential and Householder Development (2018)
- Sustainable Development - A Developer's Guide
- Trees, Woodlands, Hedgerows and Development (2018)

Other relevant evidence or policy guidance:

- Manual for Streets (Welsh Assembly Government, DCLG and DfT - March 2007)
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Office Circular 13/97 - Planning Obligations

Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

Issues

The main issues in this assessment are:

- Principle of development;
- Visual impact;
- Impact on neighbours;
- Highways;
- Ecology;
- Drainage;
- Planning obligations;
- Village-green application.

Principle of development

Overview of policy requirements and objectives

Policy SP1 (Delivering the Strategy) seeks to:

- provide a ‘range and choice of housing to meet the needs of all sectors of the community’ (criterion one); and
- promote sustainable transport (criterion four).

Policy MG1 (Housing Supply in the Vale of Glamorgan) states that the Vale’s housing-land requirement will be met partly through the development of ‘unallocated windfall sites [consisting of 10 units or more] in sustainable locations’.

Policy MD1 (Location of New Development) states that new development on unallocated sites should:

- In the case of residential development, support the delivery of affordable housing in areas of identified need (criterion four);
- Have access to or promote the use of sustainable modes of transport (criterion five);
- Benefit from existing infrastructure provision or where necessary make provision for new infrastructure without any unacceptable effect on the natural or built environment (criterion six);
- Where possible promote sustainable construction and make beneficial use of previously developed land and buildings (criterion seven); and
- Provide a positive context for the management of the water environment by avoiding areas of flood risk (criterion eight).

Policy MD5 (Development within Settlement Boundaries) states that new development in defined settlements should:

- Make efficient use of land or buildings (criterion one);
- not prejudice the delivery of an allocated development site (criterion two);
- be ‘of a ... character that is sympathetic to and respects its immediate setting and the wider surroundings’ (criterion three);

- not result in the unacceptable loss of public open space, community or tourism buildings or facilities (criterion five).

Assessment

Location

The site falls within the defined settlement of Bonvilston (a minor rural settlement) and a low-risk flood zone. The site is part of an established residential area, and part of the site constitutes previously developed land. In addition, the site is in walking distance of several bus stops that receive services to and from larger settlements (such as Porthcawl, Bridgend, Cowbridge and Cardiff). On this basis, there is no objection to the principle of residential redevelopment of the site subject to more detailed consideration in respect of the other policies within the plan as set out above.

Need for affordable housing

The housing-strategy team has stated that the ward of Wenvoe needs 213 affordable dwellings consisting of:

- 1 bed – 94 dwellings;
- 2 bed – 82 dwellings;
- 3 bed – 28 dwellings;
- 4 bed – seven dwellings;
- 5 bed – two dwellings.

In accordance with criterion four of policy MD1, the development proposal would ‘support the delivery of affordable housing in areas of identified need’.

Loss of public open space (POS)

The Open Space Background Paper 2013 identifies part of the application site as ‘amenity greenspace’ (ref. ‘Green/505 – Maes-y-Ffynon – 0.29 ha – WD1001135’) (see Appendix 7). It also states that the ward of Wenvoe has a surplus of amenity greenspace of at least 1.58 hectares (see page 40).

Under this proposal, roughly 1,760 square metres (0.18 of a hectare) of the application site would cease to be public open space (POS). Roughly 1,000 square metres (0.1 of a hectare) of land between the cul-de-sac and the main section of Maes-y-Ffynon would remain as POS. According to the Background Paper, this would still leave the ward of Wenvoe with a surplus of at least 1.4 hectares of amenity greenspace. In addition, more than half a hectare of POS will be created on the nearby allocated housing site (which is currently under construction). Residents of Maes-y-Ffynon would be able to walk to the new POS in roughly five minutes.

For the above reasons, the development proposal would not bring about an *unacceptable* loss of public open space (see criterion five of policy MD5).

Summary and conclusion

The development proposal is acceptable in principle because it accords with strategic policies on defined settlements, affordable housing, access to sustainable transport, flood risk and the management of public open space.

Visual impact

Design and layout

Density

Policy MD6 (Housing Densities) states that a housing proposal in a minor rural settlement should have a 'minimum net residential density of 25 dwellings per hectare'.

The proposal would have a development density of 33 dwellings per hectare (dph), thereby exceeding the policy target. Whilst the density is higher than the minimum specified density, Policy MD6 does support higher densities where the development reflects the character of the surrounding area and would not unacceptably impact upon local amenity. The level of density is considered acceptable in principle subject to a more detailed consideration below and would use land efficiently.

Amenity space

The Residential and Householder Development SPG sets out the following standards for amenity space for houses and flats:

For houses, a minimum of 20 sq.m amenity space per person should be provided, and the majority should be private garden space [emphasis added].*

**typically a 2 bed house would have 3 persons, 3+ bedrooms would typically have 4 persons.*

For flats, between 12.5 sq.m and 20 sq.m of amenity space per person should be provided, depending on the size of development [emphasis added]. Communal areas of amenity space may be acceptable, but these must be directly accessible for all occupiers.*

**typically a 1 or 2 bedroom flat would have 2 persons.*

1-20 people = 20 sq.m per person

21-40 people = 17.5 sq.m per person

41-60 people = 15 sq.m per person

61+ people = 12.5 sq.m per person

The SPG defines amenity space in the following terms:

[Amenity] space associated with residential properties includes front gardens and private rear gardens. It does not include footpaths, driveways and parking areas. Amenity space is essential and provides a number of important functions that contribute towards a resident's enjoyment of a property. Those essential functions include space for relaxation,

entertainment and play; gardening and cultivation; clothes washing and drying; DIY; and waste, cycle and other domestic storage.

The application documents indicate that:

- Plot 1 (2-bed house) would have roughly 100 square metres of amenity space;
- Plot 2 (2-bed house) would have roughly 50 square metres of amenity space;
- Plots 3, 4, 5 and 6 (each a 1-bed flat) would share roughly 115 square metres of amenity space;
- Plot 7 (2-bed house) would have roughly 60 square metres of amenity space;
- Plot 8 (2-bed house) would have more than 140 square metres of amenity space (it is a corner plot);
- Plots 9 and 10 (each a 1-bed flat) would share roughly 90 square metres of amenity space.

Plots 1, 7, 8, 9 and 10 would meet or exceed the SPG's standards, but the other plots would fall short of them. Specifically, plot 2 would have a deficit of 30 square metres and plots 3, 4, 5 and 6 would have a shared deficit of 45 square metres. Nonetheless, overall there is considered to be an appropriate level of amenity space to serve the dwellings and flats

Occupants would not, of course, be limited to their own private amenity space. Public open space is available next to the houses and, in time, at the ongoing housing allocation to the east, which would be in walking distance of Maes-y-Ffynon.

Siting, design and materials

The existing residential development along Maes y Ffynnon is characterised by terraced properties, whereas the residential properties adjacent to the application site to the east are mainly large detached properties. Based upon the location of the site it is considered appropriate for the proposals to reflect the character of the housing along Maes y Ffynnon to ensure the development fits within and form a continuation of the existing street scene.

Consequently, the form and massing of proposed residential units is limited to two storeys and follows a similar design scheme to the existing residential development along Maes Y Ffynnon.



The proposed buildings largely take the form of semi-detached properties, which reflect the height, detailing and design and external materials of the properties in Maes Y Ffynnon, particularly with the use of gable roof details. The materials proposed are considered acceptable and comprise of roughcast rendered elevations and the use of plain clay tiles which will assist in assimilating the development within the Maes y Ffynnon street scene. The other details and finishes are also considered acceptable. However, planning permission should carry a condition requiring the applicant to submit samples of external finishes and materials (**condition 3 refers**).



Streetscape

Shortly after it passes the site's northern boundary, the main arm of Maes-y-Ffynnon becomes a single-track road. Roadside hedges and tall trees give the section of road to the north of the cul-de-sac's entrance a green, semi-rural character. Several trees would

be removed from the site's north-west corner, but the roadside hedge would remain. Even though the side elevation of the house in plot 1 would probably be noticeable from the road, the adjacent section of Maes-y-Ffynnon would retain its 'green corridor' character. The overall visual impact would be acceptable.

Landscaping and trees

Aside from trees, which are discussed separately (below), the proposed indicative landscaping is acceptable. Together, the turning head and the adjacent parking spaces would occupy a large area in front of the buildings. However, the adjacent front gardens and small areas of landscaping would soften this part of the site. Overall, the proposed mix of hard and soft surfaces would have an acceptable effect on the character and appearance of the site and the street. Nonetheless, to ensure that the turning head would have a high-quality finish, planning permission should carry a standard condition about 'hard' and 'soft' landscaping (including boundary features) (**condition 11 refers**).

More than 30 trees are on the application site.

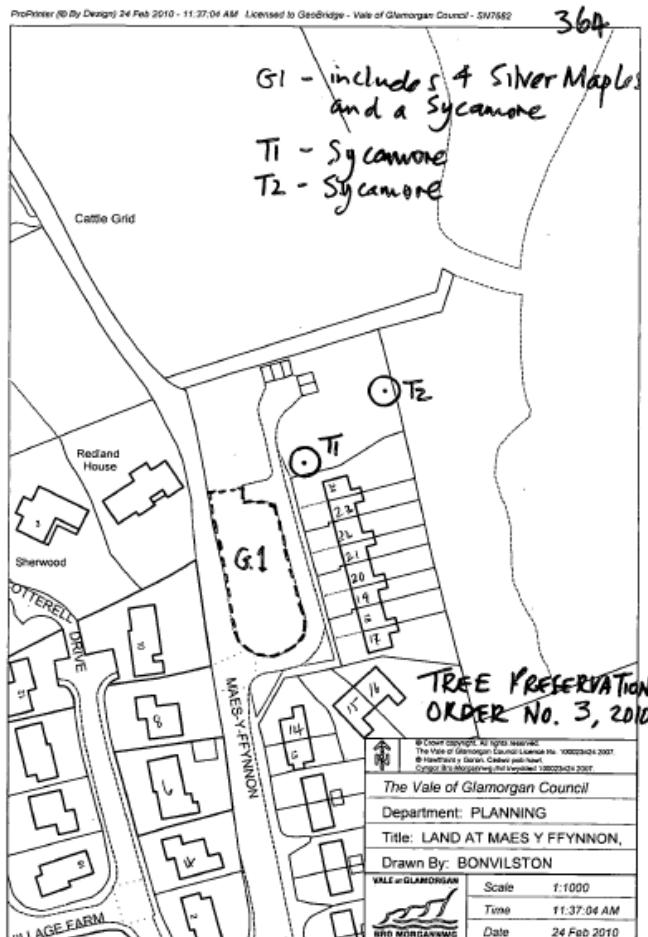
The Trees, Woodlands, Hedgerows and Development SPG places trees in the following categories:

- Category A: Trees of high quality and value capable of making a significant contribution to the area for 40 or more years;
- Category B: Trees of moderate quality or value capable of making a significant contribution to the area for 20 or more years;
- Category C: Trees of low quality, adequate for retention for a minimum of 10 years expecting new planting to take place; or young trees that are less than 15 cm in diameter which should be considered for re-planting where they impinge significantly on the proposed development;
- Category U: Trees which are in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years. Such trees may however have a conservation value which might be desirable to preserve.

The SPG states that (see paragraph 7.3.3):

Trees which are protected by a TPO or classified within retention category A or B in a BS5837: 2012 survey should be retained on the site. If it is proposed to remove any A or B category trees, then the Council will require the applicant to demonstrate how the removal is necessary and outline any mitigation measures to be provided.

A tree preservation order (TPO No.3 2010 – Land at Maes-y-Ffynnon, Bonvilston) covers two trees in the northern part of the site and a group of trees in the southern part of the site. Below is an extract from the TPO plan:



The application documents indicate that 22 trees would be removed from the site. Of these, six are covered by the TPO (though three of these are in categories C or U), and three fall into category B. With one exception, all of these trees would be removed for development reasons, as distinguished from 'tree health' reasons. In this instance, provided that replacement planting would take place (**condition 11 refers**), the social benefits of a wholly affordable housing scheme justify the loss of six healthy trees.

The applicant's planning, design and access statement (PDAS) states the following about replacement planting:

Particular attention to landscaping has been given to the northern and eastern boundary to retain the existing trees to the boundary of the settlement and include new mature planting where appropriate which is considered to create a transition from the built form of Bonvilston and the surrounding rural character outside of the settlement boundary.

The Trees, Woodlands, Hedgerows and Development SPG states the following about replacement planting:

When removal of a TPO tree is considered acceptable (through a planning application or TPO application), the Council will normally require replanting at a ratio of 2:1 which is necessary to mitigate the amenity loss of a mature or high value trees. In cases not involving a TPO tree the Council will encourage a similar 2:1 replanting ratio wherever possible. This approach is in accordance with the general principles and aspirations of Strategic Policy SP10 (Built and Natural Environment) and other policies of the LDP and the Council's Draft Tree Strategy (See section 4.3).

The application documents indicate that 14 replacement trees would be planted on the site, going beyond the SPG's two-for-one target. Even so, the landscaping condition (discussed above, in 'Landscaping' - **condition 11 refers**) should refer to the replacement planting. A separate condition should protect the trees marked for retention on the application documents (**condition 17 refers**).

Summary and conclusion

In conclusion, the loss of seven healthy trees is acceptable, given the proposal's clear social benefits, and suitable two-for-one replacement planting should be secured through a landscaping condition (**condition 11 refers**).

Impact on neighbours

The neighbours most likely to be affected by this proposal are those at Redland House (to the west) and 24 Maes-y-Ffynon. The other residents of the cul-de-sac might notice an increase in activity and movement in the street, but the effect would not amount to material planning harm. Crucially, the proposal would not affect their natural light, outlook or privacy.

Redland House

Redland House and the application site are on opposite sides of Maes-y-Ffynon. The proposed house (Plot 1) would be roughly 14 metres from Redland House, with its western (side) elevation facing the neighbours. From this distance, the new house would not have a substantial effect on the neighbours' natural light or visual amenity. However, a first-floor bedroom window is proposed in the side elevation, and this would allow occupants to overlook the garden of Redland House. To protect the neighbours' privacy, a condition requiring first-floor window in the western (side) elevation of Plot 1 to have obscure glass and non-opening sections below eye level (taken as 1.7 metres above floor level) (**condition 12 refers**).

24 Maes-y-Ffynon

The houses in plots 7 and 8 would be roughly 21 metres from 24 Maes-y-Ffynon, which does not have habitable-room windows in its northern (side) elevation. From this distance, the new houses would not affect the neighbours' natural light, outlook or privacy.

The flats in plots 9 and 10 would be roughly 14 metres from 24 Maes-y-Ffynon and roughly three metres from its back garden. The side elevation of the new building would face the neighbours. Each flat would have a living/dining-room window in this elevation, but each window would have obscure glass and no opening sections. This means that the neighbours would not be exposed to overlooking (nonetheless, planning permission should be conditioned to ensure that the non-opening obscure glazing is installed and retained thereafter (**condition 12 refers**)).

The building in plots 9 and 10 would be north of no. 24's garden. It would not, therefore, cast a shadow on the neighbours' garden.

The side elevation of the new building (plots 9 and 10) would not be parallel to the northern (side) boundary of no. 24. As a result, the distance between the building and the neighbours' garden would range from less than three metres to nearly five metres. From these distances, a two-storey side elevation, with a gable end forming the upper storey, would not appear overbearing to the neighbours.

Future occupants (plots 9 and 10)

A first-floor side window in plot 8 would allow occupants to overlook the shared garden of plots 9 and 10. To protect future occupants' privacy, a condition about non-opening sections and obscure glazing should be used (**condition 12 refers**).

Summary and conclusion

The development proposal, subject to conditions, would have an acceptable effect on neighbours' residential amenity, judged in terms of natural light, outlook, peace and quiet, and privacy.

Highways

Under this proposal, the existing road would be improved in the following ways:

- The radius of the bend near the junction would be changed;
- The section of road near the junction would be widened to six metres;
- The rest of the cul-de-sac would be widened to 5.5 metres;
- A rumble strip would be created just before a new turning head.

In addition, a new turning head (with tactile paving and a dropped kerb) and 14 parking spaces would be created.

The garages that once served the existing houses in the street were demolished some time ago. Residents now park their cars on the carriageway.

Having considered parking demand, traffic levels and public safety, the highway authority does not object to the amended proposal. Nonetheless, planning permission should carry conditions requiring the applicant to submit full engineering details and provide the parking spaces before any of the approved dwellings are occupied (**condition 14 refers**).

Ecology

The application documents include an ecological assessment (dated October 2018), a bat activity survey report (dated September 2015) and a mitigation strategy for great crested newts (dated January 2020). The ecological assessment provides more recent evidence about bats than the bat activity survey report.

Together, the ecology documents explore the proposal's effect on bats, birds, great crested newts, dormice, otters and badgers, amongst other creatures.

The author of the ecological assessment reached the following conclusion:

On the basis of the evidence currently available it is ... concluded that the site is not unacceptably constrained by biodiversity issues. There may be some potential for impact

to protected species such as common reptiles, nesting birds and foraging bats, but these should be readily amenable to mitigation. Appropriate mitigation and enhancement measures are recommended.

The application documents indicate that **bats** use the site for foraging and ‘commuting’, but do not live on the application site.

The application documents state the following about **great crested newts**:

NRW have advised that development ‘is likely to harm or disturb GCN’; [a] European Protected Species derogation licence will therefore be required for the proposed development, once planning consent is in place.

The ecology officer stated that:

- The proposal would bring about an ‘unacceptable loss of mature trees with inadequate replacement within the development’;
- ‘A reptile strategy will be required which will detail how reptiles will be protected during the construction and operational phases. This can strategy can be conditioned as a “Prior to Commencement” condition;
- ‘A biodiversity strategy scheme will be required, but can be conditioned as a “Prior to Commencement” condition if necessary;’
- ‘We note that the bat survey of the high potential trees was carried out in 2015, this survey is now out of date and will require a repeat survey’; and
- ‘We note the submission of the GCN [great crested newts] strategy and confirm this is adequate. However, as a licence will be required, the planning officer will need to undertake the (Habitats Regulations) 3 tests at the planning determination stage and document the results of this.’

Natural Resources Wales (NRW), having examined the latest application documents, does not object to the proposal. It states:

The amended [mitigation strategy for great crested newts] provides an adequate basis upon which to assess the proposal and its impacts on Great Crested Newt. We therefore have no objection to the proposal.

NRW stated that the planning authority must subject the proposal to the three licensing tests set out in the Conservation of Habitats and Species Regulations 2017. It also pointed out that the applicant would have to apply for a European Protected Species (EPS) licence under a separate (non-planning) application.

The Countryside team examined the updated bat survey and did not object to the proposal. Nonetheless, the ecology officer’s concerns are addressed below in order.

Loss of mature trees

The loss of mature trees is necessary for development purposes, and the proposal’s social benefits outweigh the visual harm. Furthermore, the amended plans, which the ecology officer was not able to see before leaving the council, indicate that replacement planting would exceed the two-for-one target set out in SPG.

Reptile strategy

Planning permission should carry the suggested condition (**condition 13 refers**).

Biodiversity enhancement

Planning permission should carry the suggested condition (**condition 18 refers**).

Bat survey

The ecological assessment includes an update to the bat survey carried out in 2015. NRW has not expressed any concern over the proposal's effect on bats (though the applicant would have to apply for a European Protected Species licence).

Great crested newt

The planning authority will subject the proposal to the licensing tests (see below).

Licensing tests

The three licensing tests state that a development proposal which would disturb or displace a European Protected Species (EPS) will be acceptable only if:

1. The purpose of the work is for preserving public health or public safety or other imperative reasons of over-riding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;
2. There is no satisfactory alternative;
3. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range.

First test

The development proposal would not preserve public health or public safety, but it does accord with the development plan's policies on new housing in defined settlements. It would bring social and economic benefits to the rural area through the provision of affordable housing. Moreover, managing development in accordance with the statutory development plan is undoubtedly a matter of public interest.

Second test

The development proposal complies with the LDP's strategic policies on new housing in defined settlements. The proposed dwellings are compatible with existing houses, whereas a non-residential use might give rise to some conflict. In social terms, moreover, the creation of 10 affordable dwellings weighs heavily in favour of the proposal.

The 'do nothing' approach is not especially desirable. Evidence shows that the land is not needed as public open space, and if it were left undeveloped it might become unsightly over time, particularly the area where the garages used to be. Furthermore, vacant land

would not have the same positive social and economic effects as the development proposal.

For the above reasons, there appears to be no satisfactory alternative to the development proposal.

Third test

NRW has stated that the development proposal would have an acceptable effect on the favourable conservation status of the EPS.

For the above reasons, the development proposal passes the three licensing tests. To protect ecological assets, the planning authority should use the conditions (reptiles and biodiversity enhancement) suggested by the ecology officer.

Drainage

Surface water

The council's drainage officers state that the developer would have to apply for 'SAB' approval through a non-planning procedure. Planning permission need not, therefore, carry a condition about drainage arrangements for surface water.

Foul water

Dŵr Cymru Welsh Water requests that planning permission carry conditions requiring the applicant to:

- Submit details of drainage arrangements for the site; and
- Assess the proposal's effect on the Bonvilston (East) Wastewater Treatment Works and, if necessary, prepare a scheme of reinforcement works.

Planning permission should carry the suggested conditions (**condition 4 and 5 refer**).

Other Matters

Environmental-health officers recommend that planning permission carry conditions about:

- a construction environment management plan (CEMP);
- unforeseen contamination, imported soil, imported aggregates and the use of site-won materials.

The suggested conditions have been used (**conditions 7, 8, 9 and 10 refer**). To protect the amenity of existing residents, a condition about working hours should also be used (**condition 6 refers**).

Planning obligations

Paragraph 5.8 of the Planning Obligations SPG states:

On 5th September 2016, Cabinet (Minute C3271) agreed that schemes for 100% affordable housing developments of twenty five units or less delivered either by the

Council or its four Housing Association Partners (Hafod Housing, Newydd Housing, United Welsh Housing and Wales & West Housing) will be exempt from paying financial planning obligations. For more information, please refer to the Affordable Housing SPG [emphasis added].

This development proposal does not, therefore, need to yield planning obligations.

Planning Policy Wales states the following about affordable housing (see paragraph 4.2.26):

Affordable housing includes social rented housing owned by local authorities and RSLs and intermediate housing where prices or rents are above those of social rent but below market housing prices or rents.

TAN 2 provides the following definition of 'affordable housing':

[Housing] where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers.

It states that affordable housing includes 'social rented' housing and 'intermediate' housing.

The application documents indicate that the dwelling units would fall into the 'social rented' category.

Planning permission should carry a condition to ensure that the dwellings would be built and then retained as affordable units (**condition 15 refers**).

Village-green application

The application site – shown on the map extract below - is the subject of a village-green application:



The village-green application is a non-planning procedure, separate from the ‘amenity greenspace’ designation in the Open Space Background Paper 2013 (discussed in ‘Principle of development’). Nonetheless, the application is a consideration in this assessment.

The village-green application, which has yet to be determined, has no set deadline. The application is likely to be the subject of a public inquiry, and a decision may not be made for some time. The village-green application process will cover a period of 20 years *before* the application was submitted. This means that the current planning application cannot affect the outcome of the village-green application. By contrast, if the village-green application were successful, the applicant would not be able to carry out this development proposal even if planning permission had been granted.

For the above reasons, the planning authority may approve this planning application without fear of disadvantaging those who have applied to make the site a village green.

RECOMMENDATION

Deemed planning consent be GRANTED subject to the following condition(s):

1. The development shall begin no later than five years from the date of this decision.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following approved plans and documents:

- A001 Rev B (Site Location Plan);
- A002 Rev J (Site Layout) (dated 11th March 2020);
- A003 Rev D (Housetype 1);
- A004 Rev D (Housetype 2);
- A005 Rev D (Housetype 3);
- A006 Rev D (Context elevation);
- A009 Rev J (Block Plan) (dated 11th March 2020);
- A011 (Shed Detail);
- the protection methods set out in the document entitled 'Tree Survey at Maes y Ffynnon, Bonvilston' (Treescene Arboricultural Consultants, 21st January 2019).

Reason:

For the avoidance of doubt as to the approved development and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

3. Notwithstanding the submitted details, before any external materials are used on the site, samples of materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details before any of the approved dwellings are occupied. The approved materials shall then be retained and maintained on the site for as long as the approved dwellings exist.

Reason:

To safeguard local visual amenities, as required by policies SP1 (Delivering the Strategy), MD2 (Design of New Development) and SP10 (Built and Natural Environment) of the Local Development Plan.

4. No development shall take place until:
 - i) a survey to establish the current flow and load received at Bonvilston (East) Wastewater Treatment Works has been undertaken; and
 - ii) an assessment of the impact of the development hereby approved on the Wastewater Treatment Works having regard to the results of the flow and load survey has been undertaken and agreed with the local planning authority; and
 - iii) if necessary, a scheme of reinforcement works for the Bonvilston (East) Wastewater Treatment Works has been agreed with the local planning authority in order to allow it to accommodate the foul discharges from the development hereby

approved without increasing the risk of breaches to the discharge consent for the Bonvilston (East) Wastewater Treatment Works.

No dwellings shall be occupied until the agreed scheme has been completed.

Reason:

To prevent hydraulic overloading of the public sewerage system, protect the health and safety of existing residents, ensure no pollution of or detriment to the environment and to ensure the site can be effectively drained.

5. No development shall commence until a foul water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul water flows and thereafter implemented in accordance with the approved details prior to the occupation of the development.

Reason:

To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, in accordance with policies SP1 (Delivering the Strategy) and MD7 () of the Local Development Plan.

6. No construction work associated with the development hereby approved shall take place on the site on any Sunday or Bank Holiday or on any other day except between the following hours:

Monday to Friday: 0700 – 1900

Saturday: 0700 – 1700

Unless such work is:

- (a) associated with an emergency (relating to health and safety or environmental issues);
- (b) carried out with the prior written approval of the Local Planning Authority.

Reason:

To safeguard the amenities of local residents, and to ensure compliance with the terms of policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

7. No development shall commence, including any site clearance or works of demolition, until a Construction Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall include the following details:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;

- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control and mitigate the emission of dust, smoke, other airborne pollutants and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- ix) lighting;
- x) management, control and mitigation of noise and vibration;
- xi) odour management and mitigation;
- xi) diesel and oil tank storage areas and bunds;
- xii) how the developer proposes to accord with the Considerate Constructors Scheme (www.considerateconstructorsscheme.org.uk) during the course of the construction of the development; and
- xiii) a system for the management of complaints from local residents which will incorporate a reporting system.

The construction of the development shall be undertaken in accordance with the approved CEMP.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place until a scheme to deal with the contamination found has been submitted to and approved in writing by the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the LPA within 2 weeks of the discovery of any unsuspected contamination.

Reason:

To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

9. Any topsoil (whether natural or manufactured), subsoil, aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for

chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with Pollution Control's Imported Materials Guidance Notes. Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the LPA.

Reason:

To ensure that the safety of future occupiers is not prejudiced in accordance with policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

10. Any site won material including soils, aggregates, recycled materials shall be assessed for chemical or other potential contaminants in accordance with a sampling scheme which shall be submitted to and approved in writing by the Local Planning Authority in advance of the reuse of site won materials. Only material which meets site specific target values approved by the Local Planning Authority shall be reused.

Reason:

To ensure that the safety of future occupiers is not prejudiced in accordance with policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

11. Before development begins, including any demolition or site clearance, details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:

- earthworks showing existing and proposed finished levels or contours;
- retaining structures;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials.

Details of soft landscape works shall include:

- methods of protecting the trees marked for retention on drawing A009 Rev J (Block Plan) and the roadside hedge next to the site's north-western corner;
- planting plans (on which the number of replacement trees must at least match the number of replacement trees shown on drawing A009 Rev J (Block Plan));
- written specifications (including cultivation and other operations associated with plant and grass establishment);
- schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate;
- an implementation programme (including phasing of work where relevant).

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the

occupation of the buildings or the completion of the development, whichever is the sooner.

The 'hard' and 'soft' landscaping shall be retained and maintained (including replacement planting, if necessary) in accordance with the approved details for as long as the approved development exists.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment) and MD2 (Design of New Developments) of the Local Development Plan.

12. Notwithstanding the approved plans, in plots 1, 8, 9 and 10 (identified on drawing A002 Rev J), any part of any first-floor side window that is below 1.7m in height above the level of the floor in the room that it serves shall be obscurely glazed to a minimum of level 3 of the "Pilkington" scale of obscuration and fixed pane at the time of installation, and so retained at all times thereafter.

Reason:

To protect the privacy of neighbours, in accordance with policy MD2 (Design of New Development) of the Local Development Plan.

13. Notwithstanding the submitted details, no development (including site clearance) shall commence until a wildlife and habitat protection and management plan has been submitted to and approved in writing by the local planning authority. The wildlife and habitat protection plan shall include:

- Details of, and a schedule for, sensitive site clearance with respect to reptiles, bats and breeding birds;
- A reptile strategy explaining how reptiles will be protected during the construction and operational phases;
- Details of newt-friendly drainage;
- A plan showing wildlife and habitat protection zones, if appropriate;
- Details of development and construction methods within wildlife and habitat protection zones and measures to be taken to minimise the impact of any works;
- A lighting scheme for the site in order to ensure minimal light spillage onto adjoining vegetation; and
- A minimum of 100mm gap at the bottom of all fencing used on site.

The protection and management plan shall then be completed in accordance with the timings approved by the local planning authority.

Reason:

In the interests of ecology and to ensure compliance with policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MG19 (Sites and Species of European Importance) and MD9 (Promoting Biodiversity) of the Local Development Plan.

14. Notwithstanding the approved plans, no development shall commence until full engineering details of the roadworks, parking areas and turning areas shown on drawings A002 Rev J and/or A009 Rev J have been submitted to, and approved in writing by, the planning authority. No dwelling shall be occupied until the roadworks, parking areas and turning areas have been completed in accordance with the approved details. The parking spaces shall thereafter be kept available for the parking of vehicles for as long as the approved development exists.

Reason:

To ensure that the development proposal will have an acceptable effect on local highway safety and the amenity of the area, in accordance with policies MD2 (Design of New Development) and MD5 (Development within Settlement Boundaries) of the Local Development Plan.

15. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of the Welsh Government Technical Advice Note 2 on Affordable Housing or any future guidance that replaces it.

Reason:

In order to ensure that the site delivers appropriate provision of affordable housing to meet the identified need and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy), SP4 (Affordable Housing Provision), MG4 (Affordable Housing) and MD4 (Community Infrastructure and Planning Obligations) of the Local Development Plan.

16. Notwithstanding the approved plans and the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwelling house. The only boundary features/means of enclosure shall be those that have first been submitted to, and approved in writing by, the planning authority. The approved boundary features/means of enclosure shall be erected before any of the approved dwellings are occupied. The boundary features/means of enclosure shall be retained and maintained in accordance with the approved details at all times thereafter.

Reason:

To safeguard local visual amenities, and to ensure compliance with policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

17. No development shall take place, nor any demolition works or site clearance, until there has been submitted to and approved in writing by the Local Planning Authority details of a scheme for the protection of trees shown to be retained on drawing number A009 Rev J (Block Plan). The approved scheme shall be carried out during the demolition of the buildings and throughout the course of construction.

Reason:

In order to avoid damage to trees on or adjoining the site which are of amenity value to the area and to ensure compliance with policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

18. Prior to the commencement of development, details of a scheme of bio diversity enhancements shall be submitted to the Local Planning Authority. Within 6 months of the completion of the development or first beneficial occupation (whichever is the sooner) the agreed scheme of bio diversity enhancements shall be implemented/completed on site, which shall thereafter be retained, in accordance with the agreed details.

Reason:

In the interests of ecology and to ensure compliance with Policies SP1 (Delivering the Strategy) and MG9 (Promoting Biodiversity) of the Local Development Plan.

REASON FOR RECOMMENDATION

The decision to recommend that planning permission be granted has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026.

Having regard to policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MG1 (Housing Supply in the Vale of Glamorgan), MD1 (Location of New Development), MD2 (Design of New Development), MD3 (Provision for Open Space), MD4 (Community Infrastructure and Planning Obligations), MD5 (Development within Settlement Boundaries), MD6 (Housing Densities), MD7 (Environmental Protection), MD8 (Historic Environment) and MD9 (Promoting Biodiversity), the planning authority concluded that the development proposal was acceptable in principle and would have an acceptable effect on visual amenity, residential amenity, highway safety, ecology, drainage and environmental health.

It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

NOTE:

1. **The contamination assessments and the effects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the**

responsibility for

(i) determining the extent and effects of such constraints;
(ii) ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates/ soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site:

- Unprocessed / unsorted demolition wastes.
- Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
- Japanese Knotweed stems, leaves and rhizome infested soils.

In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and

(iii) the safe development and secure occupancy of the site rests with the developer.

Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land. The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land can be considered free from contamination.

2. New developments of more than one dwelling or where the area covered by construction work equals or exceeds 100 square metres as defined by The Flood and Water Management Act 2010 (Schedule 3), will require SuDS Approval Body (SAB) approval prior to the commencement of construction.

Further information of the SAB process can be found at our website or by contacting our SAB team: sab@valeofglamorgan.gov.uk

3. Where any species listed under Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2017 is present on the site, or other identified area, in respect of which this permission is hereby granted, no works of site clearance, demolition or construction shall take place unless a licence to disturb any such species has been granted by the Welsh Assembly Government in accordance with the aforementioned Regulations.

4. Warning: An European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.

To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/conservation-biodiversity-and-wildlife/european-protected-species/?lang=en>

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

Appendix 1

Copyright © 2015		
Notes: Do not scale this drawing. Check all dimensions on site. Any discrepancies to be reported back to the Architect for clarity.		
 U. Planimetric drawing, Surveyed by [unclear] S. Site plan showing proposed building footprint E. Eastings N. Northings D. Drawing date Rev. Revision Client: VALE & GLAMORGAN  Project: Maes-y-Ffynnon Bonvilston Job Number: LS55 Date: 20.07.2019 Drawn By: Drawing No.: A001 Site location plan Revision: B Scale: 1 : 1250 @ A3 Drawing Status: PLANNING  TONY KING ARCHITECTS LTD 97a Glebe Street, Penarth Vale of Glamorgan CF64 1LE T: 02920 306400 www.tonykingarchitects.co.uk		

1901031 RG3



Date/Dyddiad: 18/06/2021
Ask for/Gofynnwch am: Nathan Slater
Telephone/Rhif ffôn: 01446 704762
Your Ref/Eich Cyf: My Ref/Fy Nghyf:
e-mail/e-bost: npslater@valeofglamorgan.gov.uk

Appendix 2
The Vale of Glamorgan Council
Dock Office, Barry Docks, Barry CF63 4RT
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Swyddfa'r Doc, Dociau'r Barri, Y Barri CF63 4RT
Ffôn: (01446) 700111
www.valeofglamorgan.gov.uk



Development Management,
Regeneration and Planning Department,
Dock Office,
Subway Road,
Barry
CF63 4RT

Amended Plans for 2019/01031/RG3 and Additional Information on the Proposal

Dear Sir / Madam

Please find attached the following amended plans in relation to application 2019/01031/RG3 for the construction of 10 affordable residential units and associated works at Land to the North of Maes Y Ffynnon, Bonvilston:

- A002 – Site Layout rev. L
- A009 – Block Plan rev. L

Previously the application was considered at Planning Committee on Wednesday 15th July 2020. Planning Committee concluded to defer the decision on the planning application while the subsequent village green application submitted on the development site was resolved.

However, during discussions at Planning Committee, Councillors raised concerns which related to the following issues:

- Moving Plots 1 – 6 forward to increase the size of the rear gardens;
- The loss of trees and perceived inadequacy of their replacement on site;
- Extending the width of approach footpaths to allow disabled access to proposed buildings and linking to parking spaces.

These concerns have been considered by the applicant and a response to each issue raised is detailed as part of this covering letter. Nevertheless, it is considered necessary to provide an update on the outcome of the Village Green application which is provided below:

The proposed development site referred to as Land to the North of Maes Y Ffynnon, was subject to an application to register the land as a Town or Village Green under Section 15 of the Commons Act 2006 (App

No.01/2019/VG50- refers). An Independent Inspector (James Marwick) was instructed by the Vale of Glamorgan Council, in its capacity as the relevant Registration Authority, to hold a non-statutory public inquiry in relation to the Application and to provide findings and recommendations by way of a written report for consideration by the Registration Authority.

The Inquiry was held over the course of a single day on 19th April 2021 and the Report was completed on the 6th June 2021. The Report concluded:

- a) Registration would be incompatible with the statutory purposes for which the Land is held by the Objector.
- b) User has been “by right” rather than “as of right” of the physical “green” which is the only part of the Land over which there has been sufficient user for lawful sports and pastimes.

This resulted in a recommendation to the Vale of Glamorgan Council to dismiss the Village Green application based on the reasons above. The Public Protection Licensing Committee is the delegated body within the Council responsible for making a decision on the Village Green Application. The Village Green Report and its recommendations were considered by Public Protection Licensing Committee on Tuesday, 15th June 2021 where it was concluded to accept the recommendation of the Village Green Report and dismiss the Village Green application.

Following the conclusion of the Village Green application process, which has resulted in the proposed development site not being designated as a village green, it is requested that a decision on the planning application is progressed to the next available planning committee. However, this is subject to the Local Planning Authority are satisfied the amended plans and the response to the Planning Committee’s original concerns have been appropriately addressed.

Planning Committee Concerns:

- Moving Plots 1 – 6 forward to increase the size of the rear gardens

The applicant has assessed the design to understand the implications of moving plots 1 to 6 forward to increase the rear amenity space. By moving the plots forward this would result in the parking spaces serving the properties being immediately in front of the property or require their removal which would create an additional issue. Furthermore, by moving the properties forward while maintaining the parking provision this would result in a minimal increase of approximately 5.3sq.m to the rear amenity of plots 1 and 2 and 16.8sq.m to the shared amenity space of plots 3 to 6.

Moving the car parking spaces of plots 1 - 6 to the south of the layout was also considered. This would allow the proposed buildings to be brought forward significantly but would result in the partial loss the public amenity space to the south of the site. The proposal has endeavoured to retain as

much of the existing public amenity space as possible in response to concerns raised by local residents. Therefore, this approach was considered inappropriate.

Additionally, the width of the internal road was considered to be reduced to accommodate the proposed buildings moving forward to improve the rear amenity space provision. However, this reduction would impede the swept path of turning vehicles accessing the site, particularly refuse vehicles.

Consequently, it is not considered appropriate to move the proposed buildings forward to increase the rear amenity space due to the insubstantial increase in rear amenity space this would provide, and the knock-on impacts it would have on the wider site layout.

However, the smallest rear garden under the proposed scheme relates to plot 2 which has approximately 45sq.m. Although this is below the amenity space requirement outlined in the Council's Residential and Householder Development SPG, the proposal does exceed the minimum requirements for affordable housing schemes as outlined by the Welsh Government which is 40sq.m. On balance it is considered the need for affordable housing and the proposal exceeding the minimum design requirements for affordable housing set out by Welsh Government is sufficient to mitigate the under provision of amenity space when assessed against the Council's Residential and Householder Development SPG requirements.

- The loss of trees and perceived inadequacy of their replacement on site;

The proposed development site has been subject to a Tree Survey which assess the quality of the trees on the site. The majority of trees on the site were categorised as U or C which is defined as follows:

Category C - Trees of low quality, adequate for retention for a minimum of 10 years expecting new planting to take place; or young trees that are less than 15cm in diameter which should be considered for re-planting where they impinge significantly on the proposed development.

Category U - Trees which are in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years. Such trees may however have a conservation value which might be desirable to preserve.

The Council's Trees, Woodlands, Hedgerows and Development SPG states "If it is proposed to remove any A or B category trees, then the Council will require the applicant to demonstrate how the removal is necessary and outline any mitigation measures to be provided." (VoG, p.21, 2018). In the first instance any loss of category A and B trees should be replaced at a 2:1 ratio within the development site. The Tree Survey

identified that the following trees on the site were category B and would be lost to facilitate the development; T2, T3, T13, T19, T30, T34 and T35. This would mean the development proposal should include 14 new trees within the scheme. The original plans included 8 replacement trees which was an under provision, however, the amended plans have now included a total of 12 new replacement trees. Although this is an under provision of 2 replacement trees it is considered the amended layout appropriately balances the need to have useable private and public amenity space and the need for affordable housing while still delivering an improved tree planting scheme. The Council's SPG does outline that where the additional replacement tree planting can not be accommodated on site there may be instances where off-site replacement planting on public or other land in the control of the applicant will be considered. If the Local Planning Authority consider this is necessary for the proposal this can be secured via planning conditions or where necessary planning obligations (via a section 106 agreement) attached to the planning permission.

- Extending the width of approach footpaths to allow disabled access to proposed buildings and linking to parking spaces.

The proposed footways linking to the building approaches have not been widened. The applicant assessed the implications of widening the footpaths which resulted in a detrimental impact upon the proposed drainage scheme which has been approved by the SAB Authority and provides biodiversity enhancements to the scheme through the use of sustainable drainage systems such as rain gardens. It should be noted that half of the parking spaces provided within the scheme align with an approach footpath allowing occupants to use the pathway as additional space when entering and exiting their vehicle. In addition the proposed properties and amended layout has been built to the Welsh Government standards for affordable housing which are based upon the Lifetime Home Standards (<https://gov.wales/sites/default/files/consultations/2020-07/beautiful-homes-and-spaces.pdf> refers). It should be noted that the Council has approved affordable housing schemes which have followed the same standards used to produce the amended layout in the recent past. The applicant is not aware of any contextual changes in planning policy or design requirements which would warrant exceeding the standards outlined by Welsh Government for affordable homes that would require amending the proposed scheme further. However, the applicant has included additional tactile crossing areas within the scheme to improve accessibility to the proposed properties.

Another concern which has been raised under the original plans related to the location of the rumble strip. The applicant has reassessed the position of the rumble strip and the justification for its location. Consequently, the rumble strip has been removed from the proposal. The development site is located within a residential area off the main road within Bonvilston ensuring vehicle speeds would be kept to a minimum. Therefore, upon review it is not considered necessary to include a rumble strip on the approach to the development site.

I hope the above assessment of the proposed amendments provides sufficient justification and clarity in relation to the changes included within the attached plans. However, if there are any additional concerns please do not hesitate to get in contact.

Yours sincerely



Nathan Slater
Dated:18/06/2021

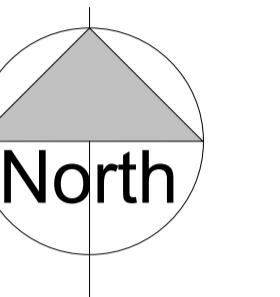




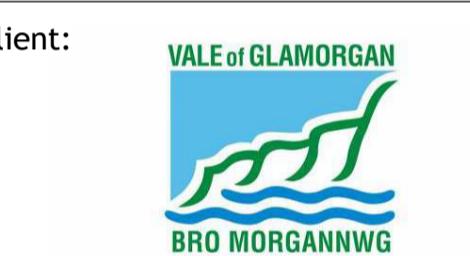
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Notes:

Do not scale this drawing. Check all dimensions on site. Any discrepancies to be reported back to the Architect for clarity.



M	Rumble strip reinstated	19.07.2021
L	Rumble strip removed	17.06.2021
K	Updated following DTM. Tree strategy updated & further crossing point added	22.01.2021
J	Updated to reflect SUDs strategy	25.08.2020
I	Road width updated. Tactile crossing point adjusted	06.11.2019
H	FFLs & Site levels updated	23.09.2019
G	Existing road adjusted	04.09.2019
F	Updated for planning submission	23.07.2019
E	OS Underlay corrected	19.07.2019
D	Updated following comments from tree consultant	22.01.2019
C	Updated following comment from planning	18.01.2019
B	Updated inline with engineering drawings	15.01.2019
A	Updated following design review	07.01.2019
Rev	Revision	By Date



Project:
Maes-Y-Ffynnon | Bonvilston

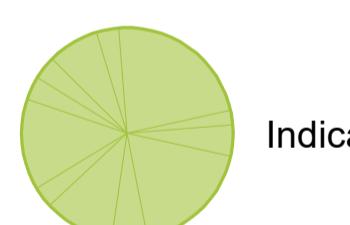
Job Number:
L525
Date:
20.07.2019
Drawn by:
Author
Dwg No:
A009

Block plan

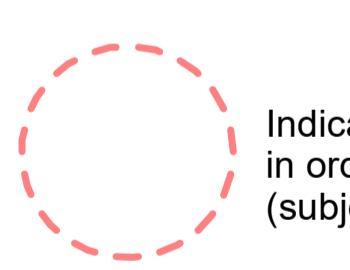
Revision:
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Scale:
As indicated @ A1
Drawing Status:
PLANNING



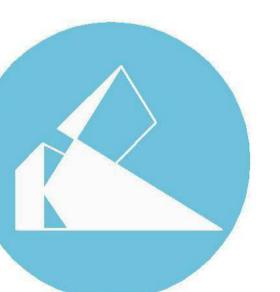
Indicates proposed new trees - species to be agreed



Indicates existing trees to be retained



Indicates existing trees to be removed in order to facilitate development (subject to tree survey)



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**IN THE MATTER OF AN APPLICATION TO REGISTER LAND
AT MAES Y FFYNNON, BONVILSTON AS A TOWN OR VILLAGE GREEN UNDER
SECTION 15 OF THE COMMONS ACT 2006**

**REPORT
Of
James Marwick
6th June 2021**

-Application Number 01/2019/VG50-

**The Vale of Glamorgan Council
Holton Road
Barry
CF63 4RU**

**IN THE MATTER OF AN APPLICATION TO REGISTER LAND
AT MAES Y FFYNNON, BONVILSTON AS A TOWN OR VILLAGE GREEN UNDER
SECTION 15 OF THE COMMONS ACT 2006**

REPORT

Introduction

1. This Report is in respect of an Application made under section 15 of the Commons Act 2006 (the “**2006 Act**”) to register land at Maes Y Ffynnon, Bonvilston (the “**Land**”) as a town or village green (the “**Application**”). I was instructed by the Vale of Glamorgan Council in its capacity as the relevant Registration Authority (the “**Registration Authority**”) to hold a non statutory public inquiry in relation to the Application and to provide my findings and recommendations by way of a written report for consideration by the Registration Authority

2. The Inquiry was held over the course of a single day on 19th April 2021 by Zoom. I had directed that the Application was one capable of being dealt with remotely in circumstances where the COVID-19 pandemic has significantly disrupted the ability of public bodies to hold public meetings and inquiries. There was no objection to that course by the interested parties and I express at the outset my gratitude to the parties for their constructive approach to this matter. I remain entirely satisfied that fair and open justice was achieved by the Inquiry. The Inquiry was publicised in the usual way and members of the Public were able to join the Inquiry by a link upon request to the Registration Authority.

3. The evidence was completed within the allocated single day and I directed sequential exchange of written closing submissions from the parties which were provided in due course following the Inquiry. There were three bundles for the purposes of the Inquiry- Applicant’s Bundle, Objector’s Bundle and Registration Authority Bundle. The bundles should be appended to this Report.

The Application

4. The Application was made by the Maes Y Ffynnon Residents Association and St Nicholas and Bonvilston Community Council (together, the “**Applicant**”) on 22nd May 2019 by application form 44. The Application was made on the basis that section 15(2) of the 2006 Act applies. The Application was verified by a statutory declaration made on 22nd April 2019 by Ms. Sian Clarke.
5. The layout of the Land is clearly identifiable on the ordnance survey plan annexed to the Application as well as in photographs and on google maps. It is an L-shaped section of land adjacent to the residential housing which forms Maes Y Ffynnon and which mainly comprises of a large area of grass and trees. There is a physical carriageway and pavement on Maes Y Ffynnon. It is in part adopted highway but it continues along the line of the adopted highway as an unadopted access road to an area of hardstanding which at most material times formed the site of five garages. The physical carriageway, highway and garages site form part of the Land which is sought to be registered for the purposes of the Application. It is right to observe at this stage that the most substantial user of the Land has been of the grassed areas and my impression from the oral evidence of the Applicant’s witnesses is that they have generally regarded the physical “green” as the grassed L-shaped area as opposed to the hardstanding and carriageway (and subsequent references to the physical “green” in this Report should be read as a reference to the same).
6. For ease of reference, I set out two google map images below which show the general appearance of the Land as of 2009 (in the middle of the relevant period).





7. The Applicant's case is there has been longstanding user as of right of the Land for lawful sports and pastimes by residents of the immediate neighbourhood which is expressed in the application to be residents of Maes Y Ffynnon and the Village Farm estate within the locality of Bonvilston¹ in the twenty years immediately preceding the application. There was a large amount of witness evidence (in the form of letters and questionnaires) to support those propositions filed with the Application.
8. The Application was advertised by the Registration Authority and objected to by the Vale of Glamorgan in its discrete capacity as owner of the Land (and in that capacity, it is hereafter referred to as the Objector) by an objection served under cover of correspondence dated 4th December 2021 (the "**Objection**").
9. The Objector did not seek to argue that there had not been significant user of the Land (at least insofar as it comprised grassed areas as distinct from the carriageway and hardstanding) but rather that such significant user was in fact because the open amenity space had been laid out as such when the housing estate was constructed in the 1950s under powers provided for by Housing Legislation. The Objector has therefore always maintained that user of the amenity space has been "*by right*" rather than "*as of right*" and that registration would also be incompatible with its status as land held for the purpose of the provision of housing and thus that the Land ought not to be registered.

¹ There has been no challenge to the proposed neighbourhood or locality.

Evidence

10. There was limited oral evidence on behalf of both parties at the Inquiry. This reflected that there was not significant conflicts of fact as to the extent of user and I had directed that no more than five witnesses for each side be called to give evidence. In the event there were five witnesses called on behalf of the Applicant (Sian Clarke², Ceri Hunt³, Lynne Price⁴, Chris Brown⁵ and Tracey Ivory⁶) and one witness on behalf of the Objector (Mike Ingram⁷).
11. The witnesses for the Applicant were all residents or former residents of the immediate vicinity. Each had provided a written statement setting out their knowledge of user of the Land which was expanded upon in oral evidence to the Inquiry.
12. Each gave me consistent and credible evidence of widespread user of the physical “green” for lawful sports and pastimes, without challenge or express permission, going as far back as the development of the housing estate in the 1950s up to the present day (albeit I am concerned with the 20 year period immediately preceding the making of the Application).
13. There was sensibly no sustained challenge to the proposition that there has been significant user of the physical “green” at all material times and I accept the evidence of the witnesses for the Applicant as to the level of user of the physical “green”.
14. I was not only satisfied that each witness was open, credible and honest but that the evidence from this selection of witnesses by the Applicant was an accurate representation of the likely evidence that would have been given by those local residents who did not give oral evidence.

² Resident of 21 Maes Y Ffynnon since 2010, witness statement dated 12th January 2021 and Ms. Clarke also adopted the evidential matters set out in the Applicant’s Pre-Inquiry Notes.

³ Resident of 13 Maes Y Ffynnon since 2015, witness statement dated 19th February 2019.

⁴ Formerly resident of 15 & 20 Maes Y Ffynnon from the early 1960s to 1986 and regular visitor due to the presence of the family home, witness statement dated 18th February 2019.

⁵ Resident of 24 Maes Y Ffynnon since 2014, witness statement dated 18th February 2019.

⁶ Resident of 23 Maes Y Ffynnon since 1990, witness statement dated 19th February 2019

⁷ Head of Housing and Building Services for the Objector, witness statement dated 15th January 2021.

15. Whilst there had been some user of the carriageway and the area of hardstanding for recreation, my clear impression was that such user was, unsurprisingly, markedly reduced compared to the physical “green” itself. This was particularly the case after the demolition of the garages in 2018 when there was a period where there was no access at all to the area and the quality of the surface deteriorated to some extent thereafter. This was addressed in some detail in cross-examination with among others Dr. Brown and Ms. Clarke.
16. There was limited evidence advanced as to user of the physical carriageway- and the statements of among others Ms. Price were directed at user of the “green”- and the difficulty in cases of this nature is that where there is user of roads and hardstanding it can also be referable to permitted user for access purposes whether related to the highway or the garages. There are only isolated references in the supporting statements to user of this area (as summarised, I find accurately, in the Objector’s closing submission at paragraph 24).
17. The main conflict of evidence that arose was as regards the maintenance of the physical “green”.
18. Ms. Clarke and Ms. Hunt in particular addressed in oral evidence that there had been a running down of any maintenance provision by the Objector since about 2009 consistent with their impression that the Objector was looking to devalue the Land as amenity space. As set out in the Applicant’s Pre-Inquiry Note, it was their further evidence that that residents themselves often had to organise the tidying of the Land to remove debris which would accumulate and that later drainage investigations in or around 2018 and 2019 had further impacted the useability of the area of the Land in the vicinity of the hardstanding and garages. The evidence of Ms. Clarke was that she did not believe that routine maintenance was provided any more than 2 times a year in recent years, whilst others put it closer to 4 times per cutting season.
19. The evidence of Mr. Ingram on behalf of the Objector was that arrangements were now in place with third party contractors and that the contractual provision was for 8 visits for routine maintenance per annum though he did not have first-hand knowledge of any recent maintenance.

20. His evidence more generally was that maintenance levels reflected available resource levels with primary regard to ensuring health and safety obligations were discharged and that the Objector also operated a reactive system of inspection. This amplified his written evidence which had confirmed that the physical “green” had been laid out as amenity space and maintained as such by the Objector at all material times.
21. I make the following findings in relation to the maintenance issue as it was a point of importance for the Applicant:-
 - 21.1 I generally prefer the Applicant’s evidence on the extent of any maintenance provision. The witnesses were able to give direct first-hand evidence of their experience of the extent of maintenance which suggested that in recent years routine maintenance has been closer to 2 to 4 times per cutting season (outside of the winter months). Mr. Ingram could only convey his understanding of the extent of maintenance and no records have been provided to confirm the position. He was a straightforward witness, undoubtedly trying to assist the Inquiry, but on this issue I prefer the Applicant’s evidence.
 - 21.2 It must however be accepted that there has been maintenance services provided at all recent times and there is insufficient evidence for the suggestion that the Objector has sought to deliberately devalue the Land as amenity space. It is understandable that Ms. Clarke and Ms. Hunt may have formed that impression but I consider that reduced maintenance services (the “basic standard” as it was put by Mr. Ingram) in recent years is very likely directly linked to available resources rather than any form of intention to devalue the amenity space and that any upkeep by local residents does not undermine the fact that this has been maintained land at all material times.
22. It is common ground that the land which is subject to the Application was formally acquired by Cardiff Rural District Council by a conveyance dated 9th January 1956. The conveyance stated that the land was purchased in exercise of the powers given to Cardiff Rural District Council by the Local Government Act 1933, the Housing Act 1936 and other unspecified powers. This is documented in the witness statement of Jocelyn Ham on behalf of the Objector dated 15th January 2021.

23. The Land has not been formally appropriated for any other statutory purpose and remains held by the Objector under the Housing Legislation.
24. There was no oral evidence from Ms. Ham to the Inquiry because her witness statement set out an uncontroversial history of the development of Maes Y Ffynnon by reference to the available records. There is no dispute as to that history of development but rather as to the import and consequences of the purposes for which the Objector has held the Land at all material times. The documented history is entirely consistent with the Applicant's witness evidence namely that the amenity space was laid out at the same time as the development of Maes Y Ffynnon in the 1950s:-
 - 24.1 It is common ground that that the Land was purchased for development as part of the design of the wider housing scheme and the Land was subsequently laid out as an access road, garages and open amenity space adjacent to the residential housing⁸.
 - 24.2 There has been continuous recreational use of the amenity space since it was laid out with open, unrestricted access to the amenity space.⁹

Relevant Law

25. The Application seeks the registration of the Land by virtue of the operation of section 15(2) of the 2006 Act. So far as is relevant section 15(2) provides that land is to be registered as a town or village green where:-

*"(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least years; and
(b) they continue to do so at the time of the application."*
26. The determination requires the straightforward application of law to the facts. The burden of proving that the Land has become a town or village green lies with the Applicant. The standard of proof is the balance of probabilities.

⁸ A proposition correctly set out by the Applicant in the supporting documentation filed with the Application.

⁹ Applicant's evidence, including that of Ms Price, as well as the Objector's evidence including Mr. Ingram.

27. All the elements required to establish that land has become a town or village green must be properly and strictly proved by an applicant on the balance of probabilities, per the guidance given by Lord Bingham in R v. Sunderland City Council ex parte Beresford [2004] 1 AC 889:-

"As Pill LJ. Right pointed out in R. v Suffolk County Council ex parte Steed (1996) 75 P&CR 102, 111, "it is no trivial matter for a landowner to have land, whether in public or private ownership, registered as a town green..."

"It is accordingly necessary that all ingredients of this definition should be met before land is registered, and decision-makers must consider carefully whether the land in question has been used by the inhabitants of a locality for indulgence in what are properly to be regarded as lawful sports and pastimes and whether the temporal limit of 20 years' indulgence or more is met."

28. The constituent elements of the statutory criteria are not defined in the 2006 Act but have been the subject of extensive judicial consideration in the authorities. I summarise material matters below.

Lawful Sports and Pastimes

29. This is a composite expression and it is sufficient for use to be either for a lawful sport or lawful pastime: per R. v Oxfordshire County Council ex parte Sunningwell Parish Council [2000] 1 AC 335 at 356G onwards.
30. If user for walking is referable to formal or informal paths or straying from such paths, the decisive factor is how matters would have appeared to the reasonable landowner: R. (Laing Homes Limited) v Buckinghamshire County Council [2003] EWHC 1578. The reasonable landowner is entitled to consider that user of the kind referable to the exercise of a public right of way may extend beyond the limits of the right of way but still be referable to right of user, support for which can be drawn from Oxford County Council v Oxford City Council [2004] Ch 253 at 258.

Significant Number of the Inhabitants of any Locality, or of any Neighbourhood within a Locality

31. A “locality” is a division of the County known to the law: MoD v Wiltshire CC [1995] 4 All ER 931 at 937b onwards.

32. A “significant number” means that the number of people using the land in question is sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation rather than occasional use by individuals as trespassers: R (McAlpine) v Staffordshire County Council [2002] EWHC 76 (Admin) at paragraph 71. In Leeds Group v Leeds City Council [2011] EWCA Civ 1447 it was expressed in terms that there must be use of such an amount and in such a manner as would reasonably be regarded as the assertion of a public right.
33. It is for an Applicant to demonstrate “significance” in relation to the chosen locality and only qualifying user counts for that purpose.

As of Right

34. Use of land “as of right” has been held to be use which is without force, without secrecy and without permission (user *nec vi, nec clam, nec precario*): per R (Lewis) v Redcar and Cleveland BC [2010] UKSC 11. What matters is the outward appearance of user to the reasonable landowner and not the subjective intention of the user.
35. It was established in the Supreme Court decision in R (Barkas) v North Yorkshire County Council [2014] UKSC 31 that any member of the public using land laid out and held as open space under section 12 of the Housing Act 1985 does so “*by right*” (i.e. with permission) rather than “*as of right*”. The Supreme Court in that case was considering whether user of land purchased and allocated as open recreation space pursuant to statutory powers under the Housing legislation (at the relevant time held under the Housing Act 1985 but under powers previously enacted in the Housing Act 1936 and the Housing Act 1957 respectively) by a local authority was user “*by right*” or “*as of right*”.
36. Lord Neuberger held as follows (at para 21):- “*In my judgment, this argument is as compelling as it is simple. So long as land is held under a provision such as section 12(1) of the 1985 Act, it appears to me that members of the public have a statutory right to use the land for recreational purposes, and therefore they use the land “by right” and not as trespassers so that no question of user “as of right” can arise.*”

37. The public's right to use land laid out as open recreation space under statutory powers therefore does not establish user of land "as of right" but rather use "*by right*", being user by permission which means that the statutory test cannot be satisfied. Where land is held by a local authority for the statutory purpose of recreation and members of the public use the land for that purpose, then they so use it pursuant to a statutory right to do so.

Statutory Incompatibility

38. The Supreme Court in R (Lancashire CC) v SEEFRA [2020] 2 WLR 1 (in a majority decision) held that land held by a public body under statutory powers for a particular purpose could not be registered as a town or village green where the effects of registration would frustrate that statutory purpose.
39. The Supreme Court was concerned with conjoined appeals where land was held respectively for education purposes and for the purposes of the NHS. In both cases registration of land as a town or village green was found likely to frustrate those statutory purposes. The principle applies to land held for general purposes under general powers and not just to land which is the specific object of the statutory powers and duties.
40. In tandem with Barkas, this latest Supreme Court decision markedly constrains the circumstances in which land held for a statutory purpose by a local authority may be registered: if it is laid out as recreational space, the public likely have a right to use the land and any user is not "as of right". If it is held for a statutory purpose, in most circumstances registration as a village green may frustrate the purpose for which it was held even if the land has not been the specific object of the power (e.g. it is undeveloped but held under powers which enable a local authority to develop the land if they so desire).

Continuous User for 20 Years of the Land

41. The qualifying user for lawful sports and pastimes must be continuous throughout the relevant 20 year period. The land must be clearly identified so that it is clear what area of land is subjects to the rights established by registration. It is well established that there is no requirement for a piece of land to have characteristics of what might be regarded as the traditional village green to be registered: per Oxford County Council.

Analysis

The Land

42. The relevant land sought to be registered is clear. It is that identified on the plan in support of the Application and referred to as the Land in this Report.

20 Year Period

43. The relevant 20 year period is that immediately preceding the making of the Application on 22nd May 2019.

Neighbourhood/Locality

44. There has been no objection to reliance on the neighbourhood of Maes Y Ffynnon and the Village Farm estate within the locality of Bonvilston. The Bonvilston Ward is a recognised administrative area within the meaning of MoD v Wiltshire Council.

Sufficiency of User

45. My material findings on the evidence of user are as follows:-

45.1 I am satisfied that there has been widespread and continuous user of the physical “green” for lawful sports and pastimes throughout the relevant 20 year period (and thus those areas of the Land other than the site of the garages, the associated hardstanding and the physical carriageway/pavement). I accept the evidence of the Applicant’s witnesses to the Inquiry, which was not subject to real challenge in this respect, as supported by the written evidence otherwise provided in support of the Application. I accept that the level of user was by a significant number of local inhabitants of the neighbourhood.

45.2 As I have referred to previously in this Report, I am not satisfied that there has been sufficient user of the physical carriageway, and/or any hardstanding that has been in place at material times, to support a finding of user by a significant number of local inhabitants. There was limited evidence of users of such areas for lawful sports and pastimes. I have treated any reference to the user of the “green” in the supporting evidence with caution where my impression from the Applicant’s witness evidence was that primary user was of the physical “green” rather than off on it on the carriageways or hardstanding.

- 45.3 I also must be satisfied that user of the carriageway, pavements and hardstanding would be objectively referable to assertion of a village green right and user associated with access to the physical green must be discounted; to the extent that user has been made of these areas of the Land (as argued for by the Applicant), I do not accept that it objectively would have been referable to assertion of village green user.
46. The fact that I have found that user of the physical carriageway and hardstanding has not met the evidential threshold does not preclude registration of the physical “green” areas of the Land if the thresholds for registration are otherwise met.
- As of Right/Statutory Compatibility**
47. This is the core issue in relation to the Application. In its closing submissions, the Applicant makes a series of forceful but cogent points as to why the Land falls to be registered and can be distinguished from Barkas both in terms of its layout but also the manner in which it is has been maintained by the Objector. I am invited to apply real caution before acceding to any of the submissions made on behalf of the Objector. I have had full regard to the closing submissions of the Applicant which I am satisfied have put all arguable points before me for consideration.
48. The first question is for what purpose the Land has been held at material times. The Applicant invites me to find that there is real uncertainty on this issue, however, I am satisfied as follows on the balance of probabilities:-

48.1 I am satisfied that the Land has been held by the Objector at all material times for the statutory purposes of its housing function. This is consistent with the initial conveyance in 1956 and the subsequent provision of the physical “green” as amenity space for use by local residents. The Housing Act empowers a local authority to exercise its housing powers for the purposes of the provision of recreation space in conjunction with the erection of new dwellings as well as to provide access and garages and I consider that the evidence squarely supports that this is what occurred in this case. It is consistent with the Applicant’s own evidence and also the evidence of Mr. Ingram for the Objector in terms of the land being maintained as housing stock land. I accept the Objector’s submissions in this respect.

- 48.2 The Land has not been appropriated for any other purpose and I am satisfied that the Land has remained held for housing purposes at all material times. I do not consider there is any other evidence from which I can draw an inference that the Land, and in particular the physical “green” has been allocated to some other purpose. I consider that the ongoing maintenance of the physical “green” is more consistent with ongoing management of the Land as housing stock land and that the lack of signs or otherwise does not support any other finding.
- 48.3 I do not consider that there is a tension at the heart of the Objector’s submissions. The provision of land as amenity space under Housing Act powers (as well the provision of access and garages ancillary to housing provision) is consistent with the Objector’s assertion that the Land has remained held by the Objector for housing purposes at material times. The Supreme Court rejected the suggestion that village green land must have been the object of a specific exercise of the statutory powers and thus it is enough for the Objector to establish that the Land has been held under its general housing powers.
49. The second question is whether registration of the Land would frustrate the statutory purpose which I have found it has been held for, namely housing purposes.
- 49.1 I accept the Objector’s submissions in this respect. Registration of the Land as a village green would frustrate the statutory purpose as it would constrain the Objector’s ability to erect new buildings including under section 12 of the Housing Act 1985 and to provide access to the existing housing by virtue of the carriageway and its pavements. The Supreme Court in Lancashire provided a low bar for an assessment of the threshold of frustration and I am satisfied that it is met in this case. That finding is not undermined by the fact that the Land has largely been laid out as recreation space as it remains land held under the general housing powers
50. The Application, in my view, therefore fails as registration would not be compatible with the statutory purposes by which the Objector has held the Land. This finding applies to the Land as a whole and overtakes my findings as to the extent of any user of parts of the Land.

51. If I were wrong in this respect, I would also consider that any user of the physical “green” has been “by right” rather than “as of right” on a proper application of Barkas.

52. I repeat my finding that the Land has been held under housing powers and that it is more likely than not that the physical “green” was laid out as amenity space in conjunction with the development of the adjacent housing. It follows, in my view, that user has been by statutory right and I accept the Objector’s submissions in this respect. I do not consider that the situation can be distinguished from Barkas. The particular circumstances of the Land (such as the absence of the grant of express permissions or licences) do not persuade me that I should depart from a straightforward application of Barkas to the facts of this case:-

- 52.1 This is land laid out under the Housing Act legislation now embodied by the Housing Act 1985.
- 52.2 Therefore user for recreation of amenity space is “*by right*” rather than “*as of right*”. I must therefore discount the open user of the physical “green” by local inhabitants as it is not “*as of right*” and this means that the user I have found of the physical “green” cannot support village green registration.
53. I am therefore satisfied that the Application should be rejected on this alternative, though interlinked ground- the user of the Land for recreational purposes has been “*by right*”.
54. The Applicant ultimately had to overcome Supreme Court case law which greatly narrowed the circumstances in which local authority land may come to be registered as a town or village green. I make clear in reaching my conclusions that I have not had regard to any planning merits issues which are a matter outside the remit of my recommendations for the purposes of this Report.

Continuation

55. I am satisfied that any claimed user continued up to until the date of the Application and I would not have regarded the demolition of the garages in 2018 and the partial closing off of part of the Land as a bar to registration of the physical “green”.

Conclusions & Recommendations

56. My overall conclusion is the Application must fail because:-

- a) Registration would be incompatible with the statutory purposes for which the Land is held by the Objector.
 - b) User has been “*by right*” rather than “*as of right*” of the physical “green” which is the only part of the Land over which there has been sufficient user for lawful sports and pastimes.
57. I recommend to the Registration Authority accordingly that the Application be dismissed and the reasons for the dismissal be stated to be those set out in this Report.

JAMES MARWICK

6th June 2021

St John’s Chambers

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Bristol, BS1 6PU

VALE OF GLAMORGAN COUNCIL PLANNING COMMITTEE: WEDNESDAY 1ST SEPTEMBER 2021

DISCUSSION IN REFERENCE TO APPLICATION 2019/01031/RG3

Attendees:

- Vice-Chair: Councillor B.T. Gray;
- Councillors: R.M. Birch, C.A. Cave, P. Drake, V.P. Driscoll, S.T. Edwards, N.P. Hodges, Dr. I.J. Johnson, G.C. Kemp, A.C. Parker, L.O. Rowlands, N.C. Thomas, M.R. Wilkinson, E. Williams, M.R. Wilson, and M. Wright
- Legal: James Docherty
- Planning Officers:
 - Head of Regeneration and Planning – Marcus Goldsworthy
 - Operational Manager – Victoria Robinson
 - Principal Planner – Stephen Butler
- Community Councillor – Ian Perry (St Nicholas and Bonvilston Community Council)
- Members of the Public: Mrs Hunt; Mrs Clarke
- Meeting Administration (referred to as Admin)

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TRANSCRIPT OF PLANNING COMMITTEE

Key sections relevant to the reasons for appeal based on non-determination have been highlighted in yellow within the transcript. The full recording of the planning committee meeting can be viewed on the following link:

<https://www.youtube.com/watch?v=BOPmT897f3k&list=PLzt4i14pgqlEYTpGwpnqhxqyllskR95ke&index=1&t=6538s>

PLANNING COMMITTEE CONSIDERS APPLICATION 2019/01031/RG3

[Discussion on application 2019/01031/RG3 starts at 1 hour, 21 minutes, 11 seconds]

Cllr Gray: Right, we move on to planning application 2019/01031/RG3. Can I just check Councillor Wilkinson hasn't actually come back in; she was someone else who has declared. Both Councillor Bird and Wilkinson have left?

Admin: I'll just double check now

Cllr Gray: Thank you

Admin: No, she's, Councillor Wilkinson isn't on Chair

Cllr Gray: Okay fantastic in which case I'll ask Steve to introduce, I can see you have shared your screen already so you kick us off please.

SUMMARY OF DELEGATED OFFICER'S REPORT AND RECOMMENDATION

[Stephen Butler presents Officer's Report via a virtual presentation]

Stephen Butler: Thank you Vice Chair. In terms of a bit of a background on this one, members will probably recall this application being presented last summer on the 15th of July, where it was agreed to defer the determination whilst the subsequent village green application was resolved. So, as part of those discussions as well, there were concerns raised in relation to the location of the plots, loss of trees and extending the width of the approach footpaths. So, just to... *[recording lost for approx. 11 seconds]* ...Yes so, so the site at the moment, I'll go onto the village green issue a little bit later, but in terms of the actual appearance of the site it's, it's a, *[Stephen Butler rearranges report presentation to appropriate section]*. So those of you that are aware of the site, this is the turning into the site, this is the junction of Maes Y Ffynnon and this road, and I think that road is also called Maes Y Ffynnon. So, this is the area of green open space opposite the existing housing. As part of the development of the site for 10 affordable houses of which, as as Ian alluded to with his application, again this is the Council's own application to build affordable housing. So, its 100% affordable housing and it'll be social rented housing. So, in terms of, there was some highway improvements, will be at this junction to improve the swept bend and visibility. So, this main part of the site will largely be retained other than just the access further down and, this is the moment, this is going to be retained, this is an existing, there's an existing turning area located towards the top end of the site, this is going to be, the highway will be extinguished, and this area will be grassed and landscaped to match the adjoining area. So really this is the main part of the site which contained the former garages and the parking

areas and with incidental open space in between. So, if we just, just run back to the layout, *[Stephen Butler moves to appropriate section of the report]* so as you say this is where that turning area was shown. So that turning area is going to be reinstated into grass so as we've said, it's an application for 10 affordable houses. In terms of the make-up, 4 would be two-bedroom houses and 6 one-bedroom flats, 2 of which will be reserved for persons at least 55 years old. So again, the council are looking at kind of retirement type affordable housing units. So, in terms of the design I think the best thing would probably be to look at the CGIs which are a bit more useful. So the elevation wise, its very much copying the existing housing which is located along Maes Y Ffynnon, and that's an example of the street scene, so you know we did some pre-application discussions on this you know, from our point of view quite quality detailing in terms of material and finishes with a sort of plain red pentile roof, nice detailing over the windows, detailing over the porch ways, arch brick head, stone brick sills etc. and very much copying the kind of established vernacular with the affordable houses along Maes Y Ffynnon. So in terms of the actual layout, as you can see its based around you know a relatively simple turning head, the houses front on to this courtyard approach with a shared, shared access and turning head arrangement, each dwelling will be served by two spaces, parking spaces to the front obviously footpaths that lead to the front of the dwellings, amenity space provision at the back. So I can, I can answer questions on amenity space a little bit later and some trees are being lost to accommodate the development towards the bottom end of the site to provide the new access and as you can see these circular red dotted *[Stephen Butler indicates to the layout plan]* of this, the trees that will be removed, equally the scheme also proposes some more tree planting as well. So just, so I'm happy to come back and answer more detailed questions. Just on the village green issue, following the inquiry on the 19th of July *[Officer Error – month should be April]* 2021 and the report by an independent inspector on, in the 6th June 21, a recommendation was made to the Vale of Glamorgan Council to dismiss the village green application. So the village green report and its recommendations were considered by the public protection licensing committee on the 15th June 2021 where it was resolved to accept the recommendation of the village green report and dismiss the village green application. So, from that point of view, you know even though, even though we are not disputing that the site isn't open space and will result in the loss of open space it doesn't have that village green status that was the reason that the application was, was principally deferred last time. I'm happy to come back to answer any questions vice chair.

MEMBERS OF THE PUBLIC AND COMMUNITY COUNCIL REPRESENTATIVE REGISTERED TO SPEAK

Cllr Gray: Thank you Steve. I think we'll move on to our speakers we have two public speakers and a community council representative as we note the new procedures for speaking at publicly, at planning committee, have come into effect following last Council meeting so I'll move on to our first public speaker Mrs Hunt. Can you confirm you are present with us?

Mrs Hunt: Yes, I'm present. Can you hear me?

Cllr Gray: Yes, I can and you're speaking in your personal capacity, that's how you've registered to speak I understand and...

Mrs Hunt: That's correct yes

Cllr Gray: You will have 3 minutes, so whenever you are ready you can start the clock on that.

Mrs Hunt: Okay, good afternoon everybody. My name's Ceri Hunt and I moved to Bonvilston in 2015 while I was expecting my youngest son Thomas, he's 5 and I also have a 14-year-old, Oliver. One thing that jumped out at me when I moved to the village is that Bonvilston is a very close community however it has very little recognised and usable green space, save for a parcel of land to the rear of the reading rooms which is remote and overgrown. The green space to the south of Maes Y Ffynnon and adjacent to the A48 is not safe for playing on due to its proximity to the main road and I've never ever seen this space used for sport or recreation. Many residents of Maes Y Ffynnon have moved to the street when the houses were first built and created a community around what we considered, still consider to be our village green, despite the recent dedication to get the land formally registered. Although the legal direction following the public inquiry was to reject the green application on a technicality, it was agreed that this is a valuable space for the community's health and well-being. If the panel could have decided upon a moral obligation, he would have chosen to protect the well-being of future generations, the deciding votes would have undoubtedly fallen in favour of protecting the space. Today you have that moral choice by rejecting the planning application and showing the children of our future community that the Vale Council cares. My children play regularly on the green which I consider a safe space for them to go alone and gain some freedom and independence not to mention the benefits this brings to their health and well-being; it has been more and more important the last 18 months or so while we have been confined to our homes due to the pandemic. I often walk my dog on the public footpath and the village green has been more and more used, the use has exponentially increased in the last 18 months. Without this space during lockdown the village would have been a very different place, for us as a family and for the village as a whole. Once it is gone, it is gone forever. I quote, in the introduction Stephen stated, 'at the moment that part of that space would be retained', I would like to know what he means by at the moment, and I question whether each dwelling is served by two parking spaces as I don't believe that is the case. The demographic of Maes y Ffynnon will undoubtedly change without this excessive development with a switch of younger families moving into the area, more car traffic and this would put what is left of the play space at risk and make it dangerous for children to use. The loss of the only safe and usable green space in Bonvilston is in your hands today and it would be a very sad state of affairs to see it go. Thank you.

Cllr Gray: Thank you very much. Are there any questions of clarification from the members of the planning committee? *[brief pause, no response]* in which case Mrs Hunt I would ask you to mute yourself and turn your microphone, turn your camera off and we will move on to our next public speaker, Mrs Clarke. Can you hear us, and can we hear you?

Mrs Clarke: Yes, I can hear you can you hear me?

Cllr Gray: I certainly can, welcome to the committee. You will have 3 minutes when you are ready.

Mrs Clarke: Okay, good afternoon everyone. I'm Sian Clarke and I moved to Bonvilston in 2000... *[cut in recording]* ...Maes Y Ffynnon you know the whole aspect and the area was something I wanted to move back into, and you know a place I wanted live. Whilst working

from home during the pandemic I've watched the children play on the green sometimes with their mum and dad as well as the villagers walking their dogs. It has provided the only, and much needed space, where neighbours had contact with each other for a socially distanced chat and the health and well-being benefits have been brought to Bonvilston because of the green far outweigh any that could be brought to the community through additional housing. I dispute the fact that there is a need for this type of housing within Bonvilston the, in fact the erection of the produced dwellings would have such a negative impact on the community, the village and village life, and well-being benefits of the village green. Before Covid, this area was used regularly for gatherings, we had fetes, we had bonfires, concerts and I know as a community it brought us together and we are really looking forward to be able to do those activities again. The Vale of Glamorgan Council themselves have recognised the areas as a green area that has been used by the community for over 50 years and in the recent public inquiry went on record as confirming and recognising this and also confirmed they have maintained the area for the residents to use and as Ceri pointed out it was a technicality by which it had been refused. The Inspector's recommendation was made on a technicality in relation to the terminology around that usage and I think despite what the ecological survey found in the area and claimed because it was clearly poorly researched. There is a huge wealth of wildlife in Maes Y Ffynnon, there are bats, there's owls, there's great crested newts. I would like to point out that those newts have already been redirected to a pond which sits just behind the proposed site development and is actually called the Newt Pond, and this has been redirected from the current development at Cottrell Gardens. There are significant numbers of trees which have preservation orders on them and also serve to support the local bat and owl population. There are other added issues regarding the parking, lack of parking, lack of space. There are elderly residents who do not have cars at present and with these additional houses the parking would become absolutely unmanageable here and would be exacerbated, you know the problems we currently have would be exacerbated. I believe these dwellings would spoil and ruin the only green space Bonvilston has along with all the positive benefits of the green [Cllr Gray interrupts]

Cllr Gray: Thank you, apologies

Mrs Clarke: Okay

Cllr Gray: Right there, right at the end of the sentence

Mrs Clarke: Sorry

Cllr Gray: Apologies about that

Mrs Clarke: Slightly over so

Cllr Gray: That was you 3 minutes before you disappear visually and audially, committee do you have any clarifications on what Mrs Clarke said? *[brief pause for councillors to respond]* No in which case I would ask you to turn your camera off and your microphone off please. You are welcome of course to stay and observe the rest of the debate, and our final speaker Councillor Ian Perry from the town and community council, are you with us? oh I can see you just appeared, thank you Ian. You'll have...

Mr Perry: I've pulled over

Cllr Gray: Oh, you've just pulled over, can I just check that I can hear you properly, sorry to cut across you.

Mr Perry: Yes, can you hear me, can everyone hear me?

Cllr Gray: Yes

Mr Perry: Good afternoon

Cllr Gray: Fantastic, you'll have your 3 minutes from whenever you start, thank you.

Mr Perry: Thank you. The community council had an AGM last night to reconsider the application due to the slight amendments of July 20th and I can confirm the Community Council is unanimously objected to the proposal with a huge list of reasons for refusal. We do have a nature emergency and we do have a housing crisis. Now the housing crisis, there are 500,000 empty properties in the UK and 10 new dwellings will not tackle that housing crisis, as important as it is to try and do something. What we need to concentrate on today is this green space and since last July, the Welsh Government has published 2 documents, one called Building Better Places which is a response to the pandemic and Planning Policy Wales 11. I'll just take you through those 2 documents, Planning Policy 11 states that recreational spaces are vital for our health, well-being and amenity, contributing to our way of life. Physical activity which green spaces facilitate are important to the well-being of children and adults and in 5 point, no sorry, in 4.5.3, planning policy wales states formal and informal green spaces should be protected from development, open green spaces contribute to biodiversity and nature, and we have a nature emergency declared by the Vale of Glamorgan Council. Planning Authorities should protect playing fields and open spaces which have significant amenity or recreational value to local communities from development, that is 4.5.5. All things that have been raised by residents of Bonvilston. The planning system must give preference to the provision of nature-based solutions including green infrastructure assets and networks as a vital part of our local and national infrastructure and to safeguard resilience in ecological networks and securing a net benefit in biodiversity, and it talks about particularly small local parks being protected where we have seen children exercising and playing in it during the pandemic. Now that's going back to Building Better Places so Welsh Government policy is firmly behind, you know, trying to protect these parcels of land. In fact, the community council has asked for a community asset transfer, and we were refused, and we also asked in 2019 to participate in the Welsh Governments local places for nature and the housing department allowed, refused to allow, the community council to participate in that. So, the community council has the money, we ring fenced some money in 2019, we have not spent that money and we have that which we could use to purchase the land and enhance it. The actual development, the 10 new dwellings, there is a shortage of private amenity space that's addressed in the documentation because there is public open space, there is a new development in Bonvilston of 120 new dwellings, only 12 of those new dwellings have been sold and that's since it started building in 2018 and only 5 are occupied. So, when the Vale of Glamorgan Council say there is new open space coming along with the new development, that is now not certain and cannot be guaranteed [Cllr Gray *interrupts*]

Cllr Gray: That's your time up I'm afraid, it goes quickly

Mr Perry: It does

Cllr Gray: Are there any questions of clarification from the Committee members? *[pause for councillors to respond]* I don't see any hands, people will be poised with their hands so

Cllr Driscoll: Yes, yes Chair I've got one.

Cllr Gray: Yes, okay go for it Councillor Driscoll

Cllr Driscoll: Yes, just a question for councillor Perry, obviously. How many of those 120 houses are social housing, do you know?

Mr Perry: I don't know off the top of my head, now there was a significant amount of extra social housing going to be provided there.

CONSIDERATION OF POINTS RAISED BY SPEAKERS

Cllr Gray: Any other clarifications from councillor Perry *[brief pause for councillors to respond]* I don't see any hands, any interventions, did Councillor Driscoll just then, no? okay just ask Steve or maybe one of the other officers want to come back on any of those points. Steve is sharing his screen.

Stephen Butler: Yeah, I'm happy to come back. Obviously, you know lots of issues raised there in terms of open space, community, and parking. Just a couple of points, just on the parking spaces I slightly stand corrected. It did, its two dwellings per, its 2 spaces per dwelling with 1 space per flat. So obviously the layouts I've got in front of, sorry, let me just move you away *[Stephen Butler adjusts virtual presentation to show development layout]*. As you can see its 2 spaces per dwelling and 1 space per flat. Obviously, clearly there is concerns, frustration in relation to the loss of what has been described as a village green or public open space. So you know the reference being made to the technicality of the village green application being dismissed, nevertheless it has been dismissed so we are, nevertheless we are still considering this as open space but as you can clearly see in terms of the application site as a whole and how much is being retained is quite, in our opinion a very very usable area of let's call it informal open space and amenity space in terms of nature conservation etc. and its roughly about two thirds of the site, is being built up but equally a third of it is being retained which in terms of many many developments having a third of a site retained as undeveloped grassland and trees is actually pretty good, pretty good ratio. Again, in terms of ecology you know we've gone through the ecology process. Our Council's Ecologist is happy with what's been proposed. I mean we are asking for a scheme of ecological enhancements, again that is targeting the nature emergency. Again, we are very familiar with Planning Policy Wales 11 and Building Better Places etc. and to be honest with you that's what we are trying to do here. Again, the site is within, it is important to note that the site is within the settlement of Bonvilston. It's not rounding off, it's not an exception site. If you are talking about building communities, there is no better way to build communities than a really well balanced, you know, 10 affordable units located within a, you know, a very very logical layout and a very very logical extension within the settlement itself. We feel the site is really really well balanced, it works well with the number of houses, existing houses which were obviously originally built as rural district affordable housing in their time and its basically the next reiteration of the Council bringing on much needed affordable housing. Just on the point raised on Cottrell Gardens and a 120 dwellings, obviously we are aware that, that the progress on that site has been slower than first anticipated but in terms of affordable housing need, under the consultation section of the

report I've actually set out the more up to date need within the Ward. So, for one-bedroom houses its, it's for one-bedroom units a need for 80 within the ward of Wenvoe and for two-bedroom its 63 which, that actually supersedes what's in the report but just in terms of need as well, I would just like to reference the, how successful the St Nicholas sites have been. So, in the Redrow site in St Nicholas there were 25 social rented units which were obviously taken on by Hafod and the Waterston site there were 6 social rented which were taken on by Newydd and all of those social rented units have been taken up as have the LCHO units. So obviously, in the absence of any affordable housing coming on the, and sometime off on the Cottrell Garden site, you know this, we are as a Council reliant on delivering an affordable housing scheme here rather than relying on the private market building out, then transferring to an RSL. So, in affect this is us getting ahead of the game really and say delivering what really is needed in Bonvilston given the big take-up in St Nicholas and obviously the need in the wider Wenvoe Ward. I think that I've possibly covered most elements there, but I am happy to, to come back.

Cllr Gray: Thank you Steve so it's just, just to clarify these are as the report states, our socially rented, so the rate at which other properties are selling is, is not a material consideration

Stephen Butler: So, sales wise no that's right

Cllr Gray: These would go on to the homes for you list

Stephen Butler: Yes, and let them, so yes that's right

Cllr Gray: Marcus I'll bring you in and then, and then Councillor Kemps indicated

Marcus Goldsworthy: Thank you chair. Yeah apologies I don't know what's happened to my computer connection I'm on my own device so apologies if you can't, I hope you can hear me. The, just to add to what, to what Steve has said obviously it's important to note that the part of the site where the majority of the housing is built is currently a parking courtyard or a redundant parking courtyard with garages and other items on there. There is some trees around the edge of it but the majority of the usable green space is retained and will be retained as part of the development. I know Steve has made that point, the other key issue just to point out is that you know the land is not defined as playing field and wasn't the finest playing field previously so that is an important note but also by this scheme coming forward that land will be retained as a, as a green area as part of, of, of the scheme itself it's shown there as Steve said, virtually 40 percent of the site, 30 to 40 of the site, is retained for that. So that is what we would call developing a really good scheme and then the really final point to note, which I think Steve also mentioned is that those houses next to it are obviously the first iteration if you like of council houses dating back to earlier in the last century they are, they are important houses and as much as how they're designed and what we've tried to do, as accounting for designing this, you know what the housing team has done is to try and tie in as closely as possible to those designs and you can see them there as Steve is showing so it is a continuation of that existing housing scheme, obviously the majority of those have been sold now but the, the current scheme will be retained for social housing, much needed social housing. The report spells out very clearly how much need there is for that social housing in the Bonvilston area and wider area and it's, you know, I had a meeting today with

housing colleagues and they stressed again how important that housing is for the local community.

Cllr Gray: Thank you, thank you Marcus. I, I mean I do want to note before I bring Councillor Kemp in, I am a bit disappointed that someone from housing or someone from, who could speak to this development, wasn't available to speak in the meeting. I think it would have aided the conversation but that noted, Councillor Kemp please

Cllr Kemp: Thank you chairman or vice chairman I should say. It, it, I think it's always disappointing in these circumstances that we hear it sort of said, well we're using two thirds of the site, we're retaining a third, it's a pity that any other site has to be heard, used for something like this. It's, it, it is those who've looked at it, and I appreciate that in probably normal times we would have had a site visit to look at this, but I, I'm hoping that most of the members will have availed themselves with the opportunity to go and look at it themselves and see what, what actually is there. I appreciate that the issue of whether or not this should have been a village green has now been dealt with. That's a shame because I think in the community, we have in Bonvilston, this area would have been very, very useful as to be designated in that way. It's, it's a comparatively, it's a comparatively small site. I think it's going to be you know, it appears to me looking certainly looking at the plans and it's always difficult just to look at plans rather than try and then see something when it's built, but once it's built it's far too late. I am concerned that the, as what's being used here is being mentioned about the issue of climate emergency and going back of course to when we debated the issue of, of model farm, it was mentioned that the Council declares that, but unfortunately planning issue, planning constraints don't enable us at the moment to really take that into account. I say, I'm extremely unhappy with this development. I think it is something which is not, I don't think it's needed in the community, so I'm not be, I won't be happy to vote in favour of this.

Cllr Gray: Thank you Councillor Kemp. I see Marcus's indicator, I'll bring him in now and then I'll come to you Councillor Cave. Marcus please

Marcus Goldsworthy: Thank you Chair. It's very, very important that when terms like, climate emergency are used the planning system isn't taking account of them, and that's clarified because that is completely incorrect and climate emergency, or the declaration of climate emergency does not prevent future development. If it did then we'd all not have a job and we might as well go home. What it does do, is it means, it means that we must take account of the climate and the, the changes to the climate in the future developments that happen. This report deals with that in quite some detail and points out actually, there's a desperate need for housing going forward for this community, I don't know where Councillor Kemp's getting these figures from but clearly this community does need it, has a demand for housing and it is shown in the report and it's shown by housing colleagues. So, I think it's really, really important that we don't use that sort of blasé term climate emergency to dismiss all development. We must take account of all elements of the material considerations in determining applications, just declaring a climate emergency does not mean we can't develop our, developers can't bring forward schemes, it doesn't mean that the Council can't seek to ensure that the, the residents of the, of Bonvilston are able to have suitable housing to live in. I just want to make that point.

Cllr Gray: Thank you Marcus and I'll bring in Councillor Cave please

Cllr Cave: Thank you vice chair. I don't really want to go over some of the points that have already been made but when this application came to committee previously I did, like I'm sure most of the committee, go down and have a look because we're not having site visits at the moment. Although I do think it would have been helpful had we had a site visit for this. I, I think it's an area of outstanding natural beauty and that hasn't been mentioned by anybody. I think if you go down and you have a look it really is a beautiful area and it's been noted that previously this was and has a housing of a social nature and it's a sad reflection on where we are as a society today that previously social housing was deemed to have open spaces such as these which have then grown in beauty over that time and that today we're being told that we shouldn't have those areas or that there's one need that's a priority over another and what we seem to be saying is the need of the people that were already there, that was outlined in the past when some social housing came along which was to have green open space around it, and that is very limited green open space, I have to say and it's only the fact that the trees that were planted there at the time have grown substantially into as I say previously a real area of outstanding beauty and it is a sad reflection that we now want to see the need that hasn't properly been described by certainly those in the community council and those living locally that we have to, while we're being asked to prioritize that need over the need of the people that are already living there. I think it's a very sad reflection on where we are.

Cllr Gray: Thank you Councillor Cave. I, I, I just thought these are common, I visited the area and the, the predominant building area that I could observe was the redundant foundations of the garage structure alongside the housing. I don't know maybe we could just clarify and, and perhaps there's a particular legal term to do with area of outstanding natural beauty. Marcus you're indicating

Marcus Goldsworthy: Thank you Chair. Yes, I mean you're quite correct. The area at the back of the site while it has trees at the edges was a former tarmac or concreted area with, with garages on. So I think the term area of natural beauty probably could be affected by the area in front of the houses that's a very attractive area of land and that is being retained by the existing houses. I should say the important point as well is that an area of outstanding natural beauty is a designation which of course this does not have that designation.

[Stephen Butler displays photographs of the existing site] There we are some of the photos have been put up now to show the area which is called hard surfaces. As you can see there but obviously the area in front of the houses, as you can see in the distance there, would be retained as a green area for residents to use going forward.

Cllr Gray: Yeah, Marcus you're dropping in and out, sort of a little bit on your, on your voice there, but I think most members got the gist of it. I certainly did, if there's any clarification I'll certainly ask, Councillor Birch you had your hand up next please

Cllr Birch: Yes, thank you. There are, there are a couple of points I'd like to make. First of all, the fact that there are council houses in this village which were built as council houses because it was necessary to house the population overspill at that time and they've all been sold but the necessity is still there because where do we expect the children of the people who live in the village at the moment to live if there is no, not going to be any provision made for them and I'd also make, like to make, to make the point that in a previous application we talked about forward planning of retirement properties and my understanding is that at least two of the properties that are being built, projected to be built here are for people who are

age 55 plus which strikes me as a prime example of planning for an elderly population both of which are reasons I would be supporting the application.

Cllr Gray: Thank you are you moving officer recommendations or are we going to count to
[Cllr Birch interrupts]

Cllr Birch: I am moving officer recommendations

Cllr Gray: Okay thank you very much. I've got Councillor Johnson and then I can still see your hand raised Councillor Cave. I will come back to you if you need to come in again.
Councillor Johnson

Cllr Johnson: Thank you chair. I think this is a, so we had a good discussion on this application when it first came before us and we had a, you know we discussed the implications of the village green application. Obviously, the village application has fallen on a large amount of technicality that I, I understand the, the report my reasoning of the report is that you know it is this area has been used as a you know, as a public open space by residents of Bonvilston over, over many years, well beyond the 20 years that's required for an actual village green had it met the the application. I, I see this as a bit of a tension, I feel a tension here between development and the, the nature emergency that we, we discussed as a Council a couple of weeks ago. So I mean, I feel I can, I look at the, I look at the plans and I see what it looks like to me like a, from a, from a planning perspective a quite neat rounding off of the village and it's within the settlement boundaries and it also maintains an area of public open space, however we want to define that, that's within Maes Y Ffynnon. Where I, I feel less content is, is from the, the ecology side and particularly where we have say some of the tests where they talk about, oh well if we do nothing then well it'll, it'll just be rubbish then won't it, which doesn't feel to me to be an appropriate consideration of the potential uses for the site from an independent perspective. Where I struggle, we have discussions about the amount of amenity space and the, the housing need in the Wenvoe Ward area, obviously the Wenvoe Ward in its present form comes to an end in a couple of months time and will be replaced by the St Nicholas / Llancarfan Ward. St Nicholas with Bonvilston is obviously a, a separate community council and we've heard from their representative earlier. I'm a little concerned that we've brought through again, despite the discussion a while back, we've brought through a reg three application for development that doesn't seem to have the support of the local community which is being affected by it. There is the feeling therefore that the Vale of Glamorgan is in doing something mode rather than Vale of Glamorgan being in listening mode. So, I'll accept the point of example that Councillor Birch has made and made by officers. The fact there is a tension that exists which is very different say to the discussion we have about the Bendricks earlier where Barry Town Council said yes this is, this is a good scheme we're happy with it, you know leads me to, to have you know some reservations about, about this and the way it's going because do you know, this is our proposal, we're bringing it forward and yet we're not bringing it forward with the clear support of the local community council and residents who've spoken tonight. I appreciate that, that residents who come to speak at these events maybe aren't always entirely representative of everybody within an area but having the, the identified need for the local area rather than the wider ward, which is miles, I think would, would have helped me tonight thanks Jeff.

Cllr Gray: Thank you Councillor Johnson. I've, I've asked James Docherty our lawyer to, to just comment because a number of speakers and members have made reference to the

village green technicality and whilst it's not a purely planning reason, it wasn't a purely planning reason we deferred earlier, we wanted to see the outcome of the village green application. I think it would be useful if we understood what the context of that was, if you're okay to elaborate on that please James

James Docherty: Yeah sure. I mean it was all, obviously all set out in the inspectors report I mean in terms of the, the technicality that's being referred to it makes it potentially sound like it was you know something went awry. I think the, what the inspector found was that there was an incompatibility with the status of it as a village green as opposed with the land being held by the housing department under its housing act duties. There wasn't much debate in relation to the actual user of the, of the land during the inquiry. The Council relied on its specific point so just to, just to make it clear there was, there's nothing untoward. It was strictly a you know, the strict legal position was it was incompatible with being found as a village green.

Cllr Gray: Okay thank you. I, I think that's helped clarify. I'm, I'm happy to second off the recommendations. I recognise the points. I've had the benefit of the site visit. I've listened to the argument and, and so I would second the move of officer recommendations. I could see, Rhiannon you've got your hand up, is that for another intervention *[brief pause for Cllr Birch to respond]* possibly from the other person no okay

Cllr Birch: I apologise, I'm taking it down

PLANNING COMMITTEE VOTE ON APPLICATION

Cllr Gray: No worries. No it's down, that's great. I'm going to move this forward to a vote on this. I think we've aired the discussion and we have had a previous discussion on the points and, and so I think we can move forward to a vote. I've got the sheet here, my first time going through this virtual vote, so bear with me. Obviously, Councillor Bird isn't with us, I'm voting for officer recommendations. Councillor Birch please

Cllr Birch: As I put forward officer recommendations please, support of

Cllr Gray: Thank you, Councillor Cave

Cllr Cave: Against

Cllr Gray: Thank you, Councillor Drake

Cllr Drake: For officer's recommendations

Cllr Gray: Thank you, Councillor Driscoll

Cllr Driscoll: Against officer recommendations

Cllr Gray: Thank you, Councillor Edwards, T Edwards

Cllr Edwards: Against officer recommendation

Cllr Gray: Thank you, Councillor Hodges

Cllr Hodges: Against

Cllr Gray: Thank you, Councillor Johnson

Cllr Johnson: Against

Cllr Gray: Thank you, Councillor Kemp

Cllr Kemp: Against

Cllr Gray: Thank you Councillor Parker's not here, Councillor Rowlands please

Cllr Rowlands: Against

Cllr Gray: Thank you Councillor Thomas, that's Neil Thomas

Cllr N Thomas: Yeah sorry, for

Cllr Gray: For okay, Councillor Wilkinson's not in the room, Councillor Williams please

Cllr Williams: For the officer's recommendations

Cllr Gray: Thank you and Councillor Wilson

Cllr Wilson: For officer's recommendations

Cllr Gray: okay so that's six in favour and seven against. So at this stage that doesn't mean that the planning application has fallen because we haven't got a planning reason for refusal, we voted on the, we voted on the acceptance of it or not. I'm going to seek a deferral.

Marcus do you want to come in please

DISCUSSION ON PLANNING REASONS FOR REFUSAL

Marcus Goldsworthy: Thank you Chair. Yes so to move forward you would need to have, if, if the application were to be recommended for refusal you'd have to have substantiated reasons for refusal. It's very difficult to see what those reasons would be currently, even following the debate. So the, the other issue really would be that obviously this isn't the local ward member who has, who has refused it so we wouldn't, it would be necessary possibly in this circumstance to get a lead member notified who would be the lead member who would appear at any appeal should there be an appeal against the decision of the Committee going forward to put forward the Committee's view in respect of any refusal. So because obviously it's very difficult for, for officers to do that in this particular case given the recommendation, given the, obviously the fact is, it's a Council owned site which is slightly different to some other situations so just pointing those issues out really at this stage for members so probably the first thing to do would be to, for members if they were to come forward with a reason for refusal for voting, was to nominate a lead member to lead in any possible appeal in the future.

Cllr Gray: Okay thank you Marcus. So amongst the seven who voted against, could someone move a refusal with a planning reason if they feel they have one

[Pause for 3 seconds awaiting councillor's response]

Cllr Gray: Looking for a hand from anybody

[Pause again for 7 seconds awaiting Councillors' response]

Cllr Gray: Councillor Cave you've got your hand up, you want to speak? You're muted if you're trying to speak

Cllr Cave: Yes, yeah, sorry well as I said earlier it's balancing one need against another. I would say that taking land that is currently used as a recreational space is unneighbourly

Cllr Gray: Okay your...

Cllr Birch: That's not a planning reason

Cllr Gray: ...unneighbourly. Sorry can we make sure our mics are muted unless you're speaking. Unneighbourly development is, is a planning reason unneighbourly in so far as we may need to elaborate further. James or could someone, one of the officers advise before we, before we move to a resolution, we have to have a planning reason laid out.

Marcus Goldsworthy: The land it's, so Chair if I could just come back in. The land isn't allocated for a residential purpose or as open space and therefore from a planning perspective would be very, very difficult to, to substantiate any reason for this refusal based around that. In terms of unneighbourly, obviously the scheme is such that it's been designed to be appropriate in its location so were we to try and define it as unneighbourly by virtue of the residential properties being there, I think that would be very difficult but obviously that is for members to make that decision. I would, I would advise that you know with extreme caution in terms of any possible appeal that obviously the decision has to stand up or it will be deemed to have been a frivolous decision and we could be liable to costs as a Council.

Cllr Gray: Okay

Marcus Goldsworthy: Obviously it's our scheme so we're not going to go for costs against ourselves but

Cllr Gray: Yeah, yeah

Marcus Goldsworthy: Not a situation where we'd want to be putting ourselves...

Cllr Gray: Okay

Marcus Goldsworthy: ...in a position where we could not substantiate a reason for refusal

Cllr Gray: Yeah I think I'll, I'll bring you in, in a second Councillor Thomas. I think ultimately in my role here chairing this discussion we need to move this forward and we're in this state of limbo. I think we can agree that unneighbourly is a subjective term as opposed to a technical term and it is one which can be up for debate and it may well be that when we go back through, if that's the resolution we have seven people who are for it being unneighbourly and six people against and that's why it fails, I just want to be clear that we don't need to add any words to that if this is the reason that those people who are voting against wish to use that it would, that is a reason under planning. Clearly I voted for it, so I'm not, so I'm not moving that, I'm just I'm trying to facilitate the discussion

Marcus Goldsworthy: No, for you to use the term unneighbourly you have to define why it's unneighbourly because it's not a term in its own right. So would it be unneighbourly by virtue of overlooking, would it be unneighbourly by virtue of the use of the land removing its use from something else, but unfortunately the use of the land was previously a garage courtyard associated with the existing housing there so it would be very difficult to justify that as being unneighbourly. The only argument that could be put forward is that the properties themselves being located on that site are unneighbourly to the existing properties and that would have to be unneighbourly in a way, unneighbourly in a way that would, was defined. So are they unneighbourly because they create overlooking to an extent that, or are overbearing, or are in such a way that they block out natural daylight or sunlight, in a way that has an impact on those existing properties. So you have to define it as you can't just say it's unneighbourly it has to be defined in a way that spells out why it is unneighbourly

Cllr Gray: Okay. Apologies Councillor Thomas I'm going to go back to Councillor Cave because obviously we were just trying to clarify the points. Councillor Cave if you're there, clearly moving unneighbourly we just need a bit more detail. I hope you've had sufficient advice from the officers as to the range of that and maybe you could just settle us down on exactly how we're defining

Cllr Cave: Yes I have heard what officers have said now. You know it, for me this, the space is, we're being asked to decide to take away somebody's green space. Whether that green space is being, well I think we are and that's you know I'm entitled to that opinion and that's what I'm talking about at the moment this is my opinion that and that is my belief that we are taking away some open space here that the community have already come along and said that they believe is their open space. Now you know who defines what a village green is, you know it, obviously the Council is saying it isn't a village green but the villagers are saying that they believe that they do use it as open space and you know for me it isn't very neighbourly for somebody else's need to be prioritized over the people that are already there and so if the term unneighbourly isn't suitable then maybe we need to do what we did previously at the previous meeting and that is go away and then come back at the next meeting and decide what the terminology should be.

Cllr Gray: I, I would hazard a guess because in the context of the debate we're talking about white, white house farm, or sorry the early, the earlier application there was a number of points raised in the debate by people that led, that were attached to substantive planning reasons and in that case, there were some on the fence issues in the report so it was easier for us to, for officers sorry, to draft reasons. I think it would be useful to, if, if Councillor Thomas will permit me, I'm going to, I'm going to call a five minute recess to get some advice. I have a clear understanding chairing this meeting I have a majority of members who don't wish this to go through, I wish to give you the best support possible in order to make sure that when you then have a vote on the reasons for refusal that you have a defendable position, or you have a planning reason to stop that which obviously isn't laid out in the report so if [Cllr Thomas interrupts]

Cllr Thomas: Can I just ask a very brief question before you do that, and it's simply was this allocated as, for building under, and it's a brownfield site, was allocated under the LDP?

Stephen Butler: Well, it's in, if I can come back on that, it's within the settlement boundary. So, by virtue of the LDP process which looked at where settlement boundaries were drawn,

it was considered as an appropriate site of effectively rounding off within the settlement boundary in terms of its form and relationship. You know it's partly brownfield so it related to the settlement so by the fact it's within the settlement boundary, almost gives it effectively an outline consent and saying residential development or redevelopment is acceptable in principle.

Cllr Thomas: So, it's just difficult to find any grounds to, to reject this.

Cllr Gray: Just to be clear, just to be clear Councillor Thomas unfortunately I can't keep asking people to vote for something we've had that vote so now we need to just drill down on what the reason is going to be put forward and who's going to take that lead to own the reason why it's being refused. So if don't leave the meeting, I'm going to step out of the meeting just to have a chat with, with officers and come back with some guidance so that we're not unduly, but let's if, if people stay in the meeting but turn your cameras off and come back in 10 minutes. Have a toilet break and we'll see you at 20 past 6.

Admin: Chair I'll stop the recording.

Cllr Gray: Thank you and if we can go into the pre-meeting teams meeting please.

Stephen Butler: Okay.

Cllr Gray: Okay.

[10-minute Recess]

[Meeting re-starts at 2 hours, 21 minutes, 33 seconds with no sound for 15 seconds]

Cllr Gray: ...marks the benefits of the recording and to any members of the public just to advise we've finished a short recess as Chair of this section of the meeting as I showed the planning committee, I've taken advice from officers and our lawyer with regard to how to proceed. I will run over that and then ask them to give a more detailed response but before I do Councillor Hodges you have your hand up please.

Cllr Hodges: Thank you. I'm, I'm trying to be helpful [Admin interrupts]

Admin: Sorry. I'll just tell you, I just want to double check that they're actually live streaming if you can bear with me, I'm just speaking to my colleague Andy Brain. Okay bear with me a second.

Admin: The stream is back up Mark.

POTENTIAL AMENDMENTS TO PROPOSAL DISCUSSED

Cllr Gray: Okay fantastic. Councillor Hodges apologies carry on.

Cllr Hodges: That's okay. I'm trying to be helpful here, I voted against the scheme because I don't like it and if I tell you why I don't like it perhaps this can form some of the basis of the refusal. If I had spoken in the meeting, I would have actually said perhaps the case should be this application should be deferred because the layout to me just seems very strange. What you've got within this site is, you've got the houses and flats being built right at the end and then having this large, and I think largely unnecessary, roadway coming in which

actually uses more of the green space than I think is necessary. It seems strange to me that when you look at the plot within the, within the context of the existing village you have the row of houses going up towards the present green field space of Maes y Ffynnon, why aren't the houses and flats being built in a more continuous row as a natural extension of what is existingly there? To me that would save more of the space, be probably a more friendly addition to the village, and it would actually make it more neighbourly, they would be part of it rather than this strange um artificial cul-de-sac.

Cllr Gray: Okay, thank you very much.

Cllr Hodges: In other words, can we have a better scheme. I don't want to see the Vale appealing against its own planning committee when there could be a scheme brought back to us that would be, probably satisfy more or all of us. That's the point I want to make.

Cllr Gray: Okay broadly, thank you Councillor Hodges, and broadly I was going to give an overview which lent towards a deferral in order to give a cooling off period in time to reflect on the points within in here, but Vicky would you like to come in please.

Victoria Robinson: Thank you just to, just to address that point really I think you know that is obviously a design solution that could have been looked at but I think it would not obviously generate the same number of houses because of the shape and size of the plot that they would only, you know, you'd probably be halving the amount of developable area to simply extend the existing row of houses which is presumably, our housing colleagues have tried their best to come up with a scheme where the density is appropriate, the impacts are addressed and you know for all the reasons we've set out in the report we think they've done a good job of doing that. So, you know obviously they, they could consider submitting an amended proposal if members were prepared to defer the application on that basis but I think that would you know clearly explain why they haven't simply added a couple of extra houses on the end of the row which would, would not provide the same number of units.

DECISION TO DEFER APPLICATION

Cllr Gray: Thank you. If I can just round up what we I think usefully used our time away from the committee to do was to try and ascertain, initially to try and ascertain a planning reason based on the indications given by Councillor Cave with regards to unneighbourly from green space. It was noted in the report that actually the technicality you may be able to use was around total amenity green space in the Ward being lost, maybe something. However, the report notes there's a 1.5 hectare surplus in amenity green space so the technicalities under the planning law wouldn't necessarily permit that as a reason. I'm going to speak in cross terms and then, and then Marcus can correct me when I finish my little monologue. I think that it's important therefore that we have a cooling off period and that those who are minded to refuse have an opportunity to speak with planning officers in order to gain an appropriate wording or indeed explore how we can progress that forwards. I noted in the main debate, I was disappointed that housing didn't come along to talk to us and I think that somewhere along the line between consideration of a design change, now taking on board Councillor Hodges point, making a presentation to the committee I would ask it to come back to a future meeting I wouldn't tie our house to the very next meeting but I think it's important we resolve this as soon as we can. So I would, I would move a, move a deferment in order to have a cooling off period. We would revisit this planning application again and then those people

who were minded to move a refusal would be armed with the data in order to do that and equally then if there are elements such as design or anything else that have altered people's opinions to either vote for or abstain then that would be addressed at that future meeting but more importantly we'd have that cooling off time in order to get the appropriate response. So that's my proposal, I don't know if that's a seconding or a mirroring Councillor Hodges, before Marcus comes in, yes I will take your hand. Sorry you're muted Nick

Cllr Hodges: Thank you Chair. Normally, if this wasn't a, a Council reg three application if this was a private individual or firm we'd say, well you've got a free go haven't you but that's not an issue I think tonight. I would like to see a scheme that is better suited to the site and better suited to not having such a big access road for such a small number of dwellings I think it can be done. It may be that the number of units built is smaller but at the moment you've got a refusal so I think it needs to be looked at.

Cllr Gray: Yeah, and I appreciate that and so hopefully between us we have a, we have a motion there to defer for a future meeting and we can move forward with that and, and I think that certainly yes none of us want to be in a position where the Council's appealing against the planning committee and we certainly would have to explore how such an appeal was supported and that may well involve you know using third parties and so forth. So, if we can get to a resolution then clearly we want to. I'm going to bring Marcus in then I'm going to bring Councillor Williams in, Marcus please.

Marcus Goldsworthy: Thank you Chair. You've done, you've explained it all very, very well the only way, you mentioned our housing colleagues, I think it's essential that if this is deferred that our housing colleagues are here. It's a shame they're not here to talk about some of the finer design matters clearly and all we can talk about is the acceptability of the scheme we have before us. I think obviously members may want to ask some questions in terms of how that scheme came to its sort of final fruition if you like and I think it will be very, very important that those colleagues are there. So yeah we will be we, we certainly could make that point if the application were to be deferred.

Cllr Gray: Thank you. I've got Councillor Williams next.

Cllr Wilson: Wilson

Cllr Gray: No, no, no. Councillor Williams had his hand up before.

Cllr Wilson: That's okay I didn't see that.

Cllr Gray: Before, before Rhian, Mark. Councillor Will, Councillor Williams had his hand up, Eddie please.

Cllr Williams: Thank you Chair, Vice Chair. Yeah, I don't understand the, the difficulties we've got generating the reasons and clearly, we, we're in a position where we do want to have a successful plan in place so I'm seconding your movement to defer.

Cllr Gray: Okay yeah. I think between, between us we've got a move and a seconder. Thank you very much, Councillor Wilson

Cllr Wilson: Yeah, I was going to ask a question about any appeal. Now say for instance, if the Council did appeal against its own planning committee and it turned out that say if the

appeal was successfully upheld weren't those Councillors who voted today would they be surcharged

Cllr Gray: I think, I think it was covered earlier the Council wouldn't seek costs against itself I think was...

Cllr Hodges: Don't threaten us Mark

Cllr Gray: I think, I think that was, that was already stated but Marcus i don't want to clarify further on Councillor Wilson's point.

Marcus Goldsworthy: Yeah, sorry Chair. No that would not be a situation that would be likely to arise but obviously we hope we don't get to that position anyway

Cllr Gray: Okay I, unless there are any dissenters, I would move the vote on deferment but before I do Vicky.

Victoria Robinson: Sorry Chair to interrupt. I just wanted to say that the planning inspectorate have new powers to impose costs regardless of an application for costs being made. So it's not entirely within the council's gift to say that they won't make an application for costs. An appeal inspector can impose those, that application for costs but obviously if it's the Council as applicant and defendant then it's someone in the Council paying somewhere irrespective of who, who calls for the cost but I just wanted to clarify that there is that ability if the planning inspector feels that particular party has been unreasonable they can impose their own, you know award of costs.

Cllr Gray: That's useful, not one that I knew before, but I think as we've stated the moving money around would still be the issue there. Okay if there's no dissent to, I'll ask for dissent now to the idea of a deferment so anyone putting a hand up now we're going to be going to a formal vote and deferment. If we're happy to take unanimous position of a deferment, sorry Councillor Hodges. you're on mute still sorry.

Cllr Hodges: Thank you Chairman. I'm, I'm happy for a deferment in fact I think that's possibly where we should have gone in the first place but what I would say is I want to see a different scheme I don't want this scheme coming back that, that will waste everyone's time including my own.

Cllr Gray: I think we'll note the fact that your, your vote won't change if the scheme looks the same when it comes back but I don't as you well know from planning, we can't dictate to someone how their plan should look but we'll certainly express the views back I think we've covered that previously. I realise we're talking about the Council, but I will just make this

Cllr Hodges: I would like a different one please

CONCLUSION OF PLANNING COMMITTEE MEETING

Cllr Gray: We are okay just for clarity we're the planning authority in this sense and I'm not the, I'm not the executive responsible for those plans okay. I haven't seen any dissent so I'm going to move as a unanimous decision around deferment and that is for the reasons I stated previously and I would hope we can come back to as soon as possible but I don't want to tie our house to the very next meeting but let's not let this one slide please too long if

everyone's happy with that, which case that brings our meeting to an end and we'll see you all, actually it's at the end of September, I believe it's the 29th so have a good September see you then. Bye, bye.

[Meeting ends at 2 hours, 34 minutes]

2019/01031/RG3 Received on 19 September 2019

APPLICANT: Housing and Building Services, Vale of Glamorgan The Alps, Alps Quarry Road, Wenvoe, CF5 6AA

Agent: Mr Nathan Slater Dock Offices, Subway Road, Barry, CF63 4RT

Land to the North of Maes Y Ffynnon, Bonvilston

Construction of 10 affordable residential units and associated works

REASON FOR COMMITTEE DETERMINATION

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application is for a major development by the Council.

Background

The application was considered at Planning Committee on 15th July 2020, where it was agreed to defer the determination whilst the subsequent Village Green application submitted on the development site was resolved.

Furthermore, during discussions at Planning Committee, Councillors raised concerns which related to the following issues:

- Moving Plots 1 – 6 forward to increase the size of the rear gardens;
- The loss of trees and perceived inadequacy of their replacement on site;
- Extending the width of approach footpaths to allow disabled access to proposed buildings and linking to parking spaces.

These concerns have been considered by the applicant and a response to each issue raised has been set out in the updated report below.

EXECUTIVE SUMMARY

This is an application for full planning permission to build 10 affordable ('social rented') dwellings and associated works including improvements to the adopted highway and 'soft' and 'hard' landscaping.

For policy purposes, the site is in the defined settlement of Bonvilston (a 'minor rural settlement' in the LDP's settlement hierarchy) and Flood Zone A (little or no risk of flooding from rivers and the sea).

Technical advisers do not object to the proposal, but members of the public express concern over several aspects of the proposal.

Officers conclude that the development proposal is acceptable in principle and would have an acceptable effect on visual amenity, residential amenity, highway safety, ecology, drainage and environmental health.

Following an Inquiry on 19th April 2021 and the report by an Independent Inspector on the 6th June 2021, a recommendation was made to the Vale of Glamorgan Council to dismiss the Village Green application. The Village Green Report and its recommendations were considered by Public Protection Licensing Committee on Tuesday, 15th June 2021 where it was resolved to accept the recommendation of the Village Green Report and dismiss the Village Green application.

It is recommended that planning permission be granted with conditions.

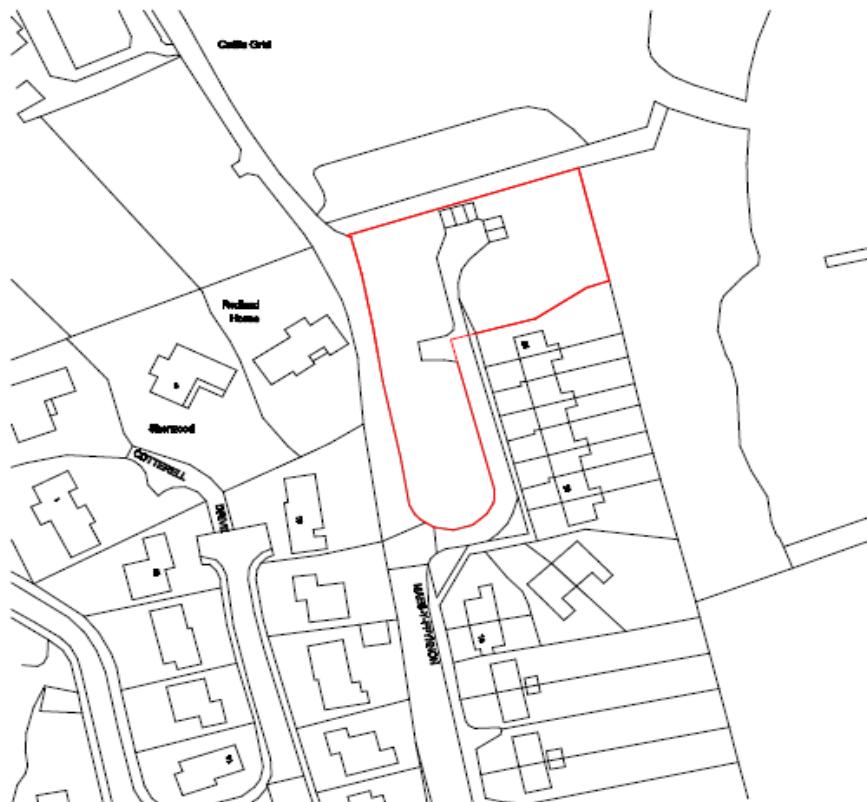
SITE AND CONTEXT

Roughly 0.3 of a hectare in area, the application site is a mix of informal amenity space and hard-surfaced land (private garages that once occupied the site were demolished before the planning application was submitted). The land rises slightly from west to east. The site is at the end of a cul-de-sac and is next to several houses, undeveloped land and an adopted highway (Maes-y-Ffynnon).

For policy purposes, the site is in the defined settlement of Bonvilston (a 'minor rural settlement' in the LDP's settlement hierarchy) and Flood Zone A (little or no risk of flooding from rivers and the sea). The site is next to the Ely Valley & Ridge Slopes Special Landscape Area (SLA), a mineral safeguarding area (limestone, category one) and a public right of way (ref. B2/11/1).

It is near, but not in, the Bonvilston Conservation Area and an LDP housing allocation (policy MG2(40): 'Land east of Bonvilston').

A group of trees on the southern part of the site is the subject of a tree preservation order (TPO) (ref. 364-2010-03-G01), and two trees on the northern part of the site are the subject of individual TPOs (refs. 364-2010-03-T001 and 364-2010-03-T002).



DESCRIPTION OF DEVELOPMENT

This application, as amended, submitted by the Housing and Building Services Department for the Vale of Glamorgan Council is for full planning permission to build 10 affordable dwellings. Associated works would include improvements to the adopted highway and 'soft' and 'hard' landscaping.

The 10 affordable ('social rented') dwellings would consist of four two-bedroomed houses and six one-bedroomed flats (two of which would be reserved for persons at least 55 years old).



Context Elevation

The developed site would consist of four two-storey buildings (each either 8 or 8.3 metres tall). The buildings would be finished with brown clay plain roof tiles, white UPVC casement windows and fascias / soffits / bargeboards, black upvc rainwater goods, white colour roughcast render, red facing brick (to plinth), GRP Door canopies and chimneys and composite external doors with glazed panels.



The (amended) application documents indicate that:

- the buildings, parking spaces and turning head would be in the northern part of the site, where the garages used to be;

- each house would have its own back garden, whereas the flats would have shared gardens;
- the developed site would have 14 parking spaces for residents of the development (two spaces for each house and one space for each flat):
- the existing road would be widened to 5.5 metres (measured from the nearer edge of the existing footway);
- the junction of the cul-de-sac and the main part of Maes-y-Ffynnon would be improved to provide better visibility and easier access for drivers of emergency-services vehicles;
- Five category U trees will be removed for arboricultural reasons
- Seven Category B and 11 Category C trees (six of which are covered by TPOs) will be removed to facilitate development
- 12 new trees would be planted on the site.

Proposed Site Layout (as amended)



Appendix 5

House type 1



House type 2



House type 3



PLANNING HISTORY

1989/00578/REG5: Residential Development. (Regulation 5) - decision: approved

2010/00113/RG4: Outline application for residential development of land for 3 houses (Minute number C89) - decision: withdrawn

CONSULTATIONS

St. Nicholas and Bonvilston Community Council was consulted and did not comment on the proposal (but it did comment on the proposal during the statutory period of pre-application consultation overseen by the applicant).

Cllr I. Perry of St. Nicholas and Bonvilston Community Council expressed his wish for the planning committee to determine the application and has restated his and **the Community Councils**, continued objection to the application.

Further representations have been received from **Cllr I. Perry** raising issues relating to urban design, adequacy of the parking layout and accessibility issues as set out below :

- The number of parking spaces;
- Whether some parking spaces might be too small for drivers or passengers with disabilities;
- The possibility that parked vans (or other large vehicles) might deprive residents of light in their habitable rooms;
- Emissions released by old vehicles;
- The use of a rumble strip, the noise from which might disturb residents' sleep;
- The locations of dropped kerbs;
- The usefulness of the proposed footways;
- The loss of eight existing on-street parking spaces;
- The proposal may lead to parking problems in Maes y Ffynnon (in particular if the parking of motor vehicles on footways should become illegal in Wales);
- The site layout does not account for desire lines (e.g. the dropped kerbs would be inconvenient for persons with disabilities and occupants of certain plots);
- The reconfigured street would be needlessly wide and would encourage people to drive more quickly and attempt dangerous and damaging passing manoeuvres;
- Whether the planning authority notified St Nicholas with Bonvilston Community Council and the Maes y Ffynnon Residents' Association of the committee meeting;
- Whether local persons are being 'digitally excluded' from the democratic process of assessing and commenting on the application.

Wenvoe Community Council was consulted but did not comment on the proposal.

Councils Highway Development (Highway Authority) were consulted and following submission of amended plans did not object to the proposal.

Councils Public Rights of Way Officer was consulted and did not object to the proposal, but has advised that the Public Right of Way must be kept open and available for safe use by the public at all times. The applicant should ensure that materials are not stored on the Public Right of Way and that any damage to the surface as a result of the development is made good at their own expense.

The **Drainage Section** was consulted and confirmed that the developer would have to apply to the council – the 'SuDS approval body (SAB)' - for approval of drainage arrangements for surface water (this is a non-planning procedure).

Environmental-health officers (Shared Regulatory Services (SRS)) were consulted and made the following observations:

Noise

Recommended that planning permission carry conditions about construction working hours and a construction environment management plan (CEMP).

Contaminated Land, Air & Water Quality

Recommended that planning permission carry conditions about unforeseen contamination, imported soil, imported aggregates and the use of site-won materials.

Councils Ecology Officer was consulted and initially objected to the proposal because mature trees would be lost and not replaced and because information relating to bats was out of date. The Countryside team later confirmed that the updated information about bats was acceptable.

Councils Housing Strategy was consulted and supported the proposal, stating that it would help to meet the Vale's need for affordable housing. The most up to date need for the Wenvoe ward is:

Wenvoe	
Bedrooms	No.
1	80
2	63
3	41
4	11
5	1
Total	196

Dŵr Cymru Welsh Water (DCWW) was consulted and stated that existing infrastructure has no capacity for the development proposal. It recommended that planning permission carry a pre-commencement condition about drainage arrangements for foul water. Importantly, the suggested condition may require the applicant to pay for a 'Developer Impact Assessment' before DCWW carries out reinforcement works to accommodate the development proposal's foul water.

Natural Resources Wales (NRW) was consulted and did not object to the (amended) proposal. It did, however, state that the proposal must pass the three licensing tests set out in the Conservation of Habitats and Species Regulations 2017.

South Wales Police was consulted but did not comment on the proposal.

Wenvoe Ward Member was consulted and no comments have been received to date.

Cllr Leighton Rowlands requested that the planning committee has a site visit.

REPRESENTATIONS

The neighbouring properties were consulted on 27th September 2019, site notices were displayed on 30th September 2019 and the application was advertised in the press on 10th October 2019.

To date, the planning authority has received **27 letters of representation** in which members of the public expressed concern over:

- The location of the rumble strip;
- Parking;
- Traffic;
- Road safety;
- Amount and density of development;
- Loss of green space (described as a play area and village green);
- Actual demand for affordable housing in the area;

- Overdevelopment of Bonvilston (this proposal in combination with other housing schemes);
- Effect on wildlife;
- Loss of trees;
- Effect on Bonvilston Conservation Area;
- Drainage;
- Whether the proposal is the best use of the land;
- Maintenance arrangements;
- The age of some of the application documents (surveys, for example);
- Local bus services (which are said to be infrequent and expensive);
- Effect of building work on residents;
- Overall effect on the character of the area (more houses, loss of green space, more parked cars).

REPORT

Planning Policies and Guidance

Local Development Plan:

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Vale of Glamorgan Adopted Local Development Plan 2011-2026 forms the local authority level tier of the development plan framework. The LDP was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

Strategic Policies:

POLICY SP1 - Delivering the Strategy

POLICY SP4 – Affordable Housing Provision

POLICY SP10 - Built and Natural Environment

Managing Growth Policies:

POLICY MG1 - Housing Supply in the Vale of Glamorgan

Managing Development Policies:

POLICY MD1 - Location of New Development

POLICY MD2 - Design of New Development

POLICY MD3 - Provision for Open Space

POLICY MD4 - Community Infrastructure and Planning Obligations

POLICY MD5 - Development within Settlement Boundaries

POLICY MD6 - Housing Densities

POLICY MD7 - Environmental Protection

POLICY MD8 - Historic Environment

POLICY MD9 - Promoting Biodiversity

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

Future Wales: The National Plan 2040:

Future Wales – the National Plan 2040 is the national development plan and is of relevance to the determination of this planning application. Future Wales provides a strategic direction for all scales of planning and sets out policies and key issues to be considered in the planning decision making process.

In the section - Wales : An Overview it states under Housing that :

Good quality affordable homes are the bedrock of communities and form the basis for individuals and families to flourish in all aspects of their lives. Future Wales provides evidence of the need for housing across Wales at both a national and regional level. This evidence demonstrates the need for a focus on increasing the delivery of social and affordable homes. The Welsh Government is targeting its housing and planning interventions towards achieving this aim within the broader context of increasing supply and responding to different needs, including our ageing society and climate change.

The following chapters and policies are of relevance in the assessment of this planning application:

Chapter 3: Setting and achieving our ambitions

- 11 Future Wales' outcomes are overarching ambitions based on the national planning principles and national sustainable placemaking outcomes set out in Planning Policy Wales.

Chapter 4: Strategic and Spatial Choices: Future Wales' Spatial Strategy

- Guiding framework for where large-scale change and nationally important developments will be focussed over the next 20 years.
- Strategy builds on existing strengths and advantages and encourages sustainable and efficient patterns of development.

Chapter 5 – The Regions

- The Vale of Glamorgan falls within the South East region.
- Regional policies provide a framework for national growth, for regional growth, for managing growth and supporting growth.
- In the absence of SDPs, development management process needs to demonstrate how Future Wales' regional policies have been taken into account.

Policy 1 – Where Wales will grow

- Supports sustainable growth in all parts of Wales.
- Development in towns and villages in rural areas should be of an appropriate scale and support local aspirations and need.

Policy 2 – Shaping Urban Growth and Regeneration – Strategic Placemaking

- Based on strategic placemaking principles.

Policy 4 – Supporting Rural Communities

The Welsh Government supports sustainable and vibrant rural communities. Strategic and Local Development Plans must identify their rural communities, assess their needs and set out policies that support them. Policies should consider how age balanced communities can be achieved, where depopulation should be reversed and consider the role of new

affordable and market housing, employment opportunities, local services and greater mobility in tackling these challenges

Policy 7 – Delivering Affordable Homes

The Welsh Government will increase delivery of affordable homes by ensuring that funding for these homes is effectively allocated and utilised. Through their Strategic and Local Development Plans planning authorities should develop strong evidence based policy frameworks to deliver affordable housing, including setting development plan targets based on regional estimates of housing need and local assessments. In response to local and regional needs, planning authorities should identify sites for affordable housing led developments and explore all opportunities to increase the supply of affordable housing.

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 11, 2021) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales,

The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 - People and Places: Achieving Well-being Through Placemaking,

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places
- Promoting Healthier Places
- Accessibility
- Previously Developed Land
- Supporting Infrastructure

Chapter 4 - Active and Social Places

- Transport
- Living in a Place (housing, affordable housing and gypsies and travellers and rural enterprise dwellings)
- Community Facilities
- Recreational Spaces

Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)

- Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a de-risking approach)

Technical Advice Notes:

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 2 - Planning and Affordable Housing (2006)
- Technical Advice Note 10 - Tree Preservation Orders (1997)
- Technical Advice Note 11 - Noise (1997)
- Technical Advice Note 12 - Design (2016)
- Technical Advice Note 20 - Planning and the Welsh Language (2017)
- Technical Advice Note 24 - The Historic Environment (2017)

Supplementary Planning Guidance:

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG documents are relevant:

- Affordable Housing (2018)
- Biodiversity and Development (2018)
- Model Design Guide for Wales
- Parking Standards (2019)
- Planning Obligations (2018)
- Residential and Householder Development (2018)
- Sustainable Development - A Developer's Guide
- Trees, Woodlands, Hedgerows and Development (2018)

Other relevant evidence or policy guidance:

- Manual for Streets (Welsh Assembly Government, DCLG and DfT - March 2007)
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Office Circular 13/97 - Planning Obligations

Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

Issues

The main issues in this assessment are:

- Principle of development;
- Visual impact;
- Impact on neighbours;
- Highways;
- Ecology;
- Drainage;
- Planning obligations;
- Village-green application.

Principle of development

Overview of policy requirements and objectives

Policy SP1 (Delivering the Strategy) seeks to:

- provide a 'range and choice of housing to meet the needs of all sectors of the community' (criterion one); and
- promote sustainable transport (criterion four).

Policy MG1 (Housing Supply in the Vale of Glamorgan) states that the Vale's housing-land requirement will be met partly through the development of 'unallocated windfall sites [consisting of 10 units or more] in sustainable locations'.

Policy MD1 (Location of New Development) states that new development on unallocated sites should:

- In the case of residential development, support the delivery of affordable housing in areas of identified need (criterion four);
- Have access to or promote the use of sustainable modes of transport (criterion five);
- Benefit from existing infrastructure provision or where necessary make provision for new infrastructure without any unacceptable effect on the natural or built environment (criterion six);
- Where possible promote sustainable construction and make beneficial use of previously developed land and buildings (criterion seven); and
- Provide a positive context for the management of the water environment by avoiding areas of flood risk (criterion eight).

Policy MD5 (Development within Settlement Boundaries) states that new development in defined settlements should:

- Make efficient use of land or buildings (criterion one);
- not prejudice the delivery of an allocated development site (criterion two);
- be 'of a ... character that is sympathetic to and respects its immediate setting and the wider surroundings' (criterion three);
- not result in the unacceptable loss of public open space, community or tourism buildings or facilities (criterion five).

Assessment

Location

The site falls within the defined settlement of Bonvilston (a minor rural settlement) and a low-risk flood zone. The site is part of an established residential area, and part of the site constitutes previously developed land. In addition, the site is in walking distance of several bus stops that receive services to and from larger settlements (such as Porthcawl, Bridgend, Cowbridge and Cardiff). On this basis, there is no objection to the principle of residential redevelopment of the site subject to more detailed consideration in respect of the other policies within the plan as set out above.

Need for affordable housing

The housing-strategy team has stated that the ward of Wenvoe needs 213 affordable dwellings consisting of:

- 1 bed – 94 dwellings;
- 2 bed – 82 dwellings;
- 3 bed – 28 dwellings;
- 4 bed – seven dwellings;
- 5 bed – two dwellings.

In accordance with criterion four of policy MD1, the development proposal would ‘support the delivery of affordable housing in areas of identified need’.

Loss of public open space (POS)

The Open Space Background Paper 2013 identifies part of the application site as ‘amenity greenspace’ (ref. ‘Green/505 – Maes-y-Ffynon – 0.29 ha – WD1001135’) (see Appendix 7). It also states that the ward of Wenvoe has a surplus of amenity greenspace of at least 1.58 hectares (see page 40).

Under this proposal, roughly 1,760 square metres (0.18 of a hectare) of the application site would cease to be public open space (POS). Roughly 1,000 square metres (0.1 of a hectare) of land between the cul-de-sac and the main section of Maes-y-Ffynon would remain as POS. According to the Background Paper, this would still leave the ward of Wenvoe with a surplus of at least 1.4 hectares of amenity greenspace. In addition, more than half a hectare of POS will be created on the nearby allocated housing site (which is currently under construction). Residents of Maes-y-Ffynon would be able to walk to the new POS in roughly five minutes.

For the above reasons, the development proposal would not bring about an *unacceptable* loss of public open space (see criterion five of policy MD5).

Summary and conclusion

The development proposal is acceptable in principle because it accords with strategic policies on defined settlements, affordable housing, access to sustainable transport, flood risk and the management of public open space.

Visual impact

Design and layout

Density

Policy MD6 (Housing Densities) states that a housing proposal in a minor rural settlement should have a 'minimum net residential density of 25 dwellings per hectare'.



The proposal would have a development density of 33 dwellings per hectare (dph), thereby exceeding the policy target. Whilst the density is higher than the minimum specified density, Policy MD6 does support higher densities where the development reflects the character of the surrounding area and would not unacceptably impact upon local amenity. The level of density is considered acceptable in principle subject to a more detailed consideration below and would use land efficiently.

Amenity space

The Residential and Householder Development SPG sets out the following standards for amenity space for houses and flats:

For **houses**, a minimum of 20 sq.m amenity space per person* should be provided, and the majority should be private garden space [emphasis added].

**typically a 2 bed house would have 3 persons, 3+ bedrooms would typically have 4 persons.*

For flats, between 12.5 sq.m and 20 sq.m of amenity space per person should be provided, depending on the size of development [emphasis added]. Communal areas of amenity space may be acceptable, but these must be directly accessible for all occupiers.*

**typically a 1 or 2 bedroom flat would have 2 persons.*

1-20 people = 20 sq.m per person

21-40 people = 17.5 sq.m per person

41-60 people = 15 sq.m per person

61+ people = 12.5 sq.m per person

The SPG defines amenity space in the following terms:

[Amenity] space associated with residential properties includes front gardens and private rear gardens. It does not include footpaths, driveways and parking areas. Amenity space is essential and provides a number of important functions that contribute towards a resident's enjoyment of a property. Those essential functions include space for relaxation, entertainment and play; gardening and cultivation; clothes washing and drying; DIY; and waste, cycle and other domestic storage.

The application documents indicate that:

- Plot 1 (2-bed house) would have roughly 100 square metres of amenity space;
- Plot 2 (2-bed house) would have roughly 50 square metres of amenity space;
- Plots 3, 4, 5 and 6 (each a 1-bed flat) would share roughly 115 square metres of amenity space;
- Plot 7 (2-bed house) would have roughly 60 square metres of amenity space;
- Plot 8 (2-bed house) would have more than 140 square metres of amenity space (it is a corner plot);
- Plots 9 and 10 (each a 1-bed flat) would share roughly 90 square metres of amenity space.

Plots 1, 7, 8, 9 and 10 would meet or exceed the SPG's standards, but the other plots would fall short of them. Specifically, plot 2 would have a deficit of 30 square metres and plots 3, 4, 5 and 6 would have a shared deficit of 45 square metres. Nonetheless, overall there is considered to be an appropriate level of amenity space to serve the dwellings and flats.

Following the concerns raised at the Planning Committee on 15th July 2020, regarding the size of the back gardens by moving Plots 1 – 6 forward, the applicant has assessed the design to understand the implications of any such change. The applicant has advised that moving the plots forward would result in the parking spaces serving the properties being immediately in front of the property or would require their removal which would create an additional issue. Furthermore, by moving the properties forward, while maintaining the parking provision would result in a minimal increase of approximately 5.3sq.m to the rear amenity of plots 1 and 2 and 16.8sq.m to the shared amenity space of plots 3 to 6.

Moving the car parking spaces of plots 1 - 6 to the south of the layout was also considered. Whilst this would allow the proposed buildings to be brought forward significantly, it would result in the partial loss the public amenity space to the south of the site. The proposal has endeavoured to retain as much of the existing public amenity space

as possible in response to concerns raised by local residents. Additionally, the width of the internal road was considered to be reduced to accommodate the proposed buildings moving forward, however, this reduction would impede the swept path of turning vehicles accessing the site, particularly refuse vehicles.

Consequently, and following detailed consideration by the applicant, they have advised that it is not considered appropriate to move the proposed buildings forward to increase the rear amenity space due to the insubstantial increase in rear amenity space this would provide, and moreover the knock-on impacts it would have on the wider site layout.

However, they have stated that smallest rear garden under the proposed scheme relates to plot 2 which has approximately 45sq.m. Although this is below the amenity space requirement outlined in the Council's Residential and Householder Development SPG, the proposal does exceed the minimum requirements for affordable housing schemes as outlined by the Welsh Government which is 40sq.m.

On balance, it is considered the need for affordable housing and the proposal exceeding the minimum design requirements for affordable housing set out by Welsh Government is sufficient to mitigate the under provision of amenity space when assessed against the Council's Residential and Householder Development SPG requirements, particularly for the reason set out above as Public open space is available next to the houses and, in time, at the ongoing housing allocation to the east, which would be in walking distance of Maes-y-Ffynon.

Siting, design and materials

The existing residential development along Maes y Ffynnon is characterised by terraced properties, whereas the residential properties adjacent to the application site to the east are mainly large detached properties. Based upon the location of the site it is considered appropriate for the proposals to reflect the character of the housing along Maes y Ffynnon to ensure the development fits within and form a continuation of the existing street scene.

Consequently, the form and massing of proposed residential units is limited to two storeys and follows a similar design scheme to the existing residential development along Maes Y Ffynnon.



The proposed buildings largely take the form of semi-detached properties, which reflect the height, detailing and design and external materials of the properties in Maes Y Ffynnon, particularly with the use of gable roof details. The materials proposed are considered acceptable and comprise of roughcast rendered elevations and the use of plain clay tiles which will assist in assimilating the development within the Maes y Ffynnon street scene. The other details and finishes are also considered acceptable. However, planning permission should carry a condition requiring the applicant to submit samples of external finishes and materials (**condition 3 refers**).



Streetscape

Shortly after it passes the site's northern boundary, the main arm of Maes-y-Ffynnon becomes a single-track road. Roadside hedges and tall trees give the section of road to the north of the cul-de-sac's entrance a green, semi-rural character. Several trees would be removed from the site's north-west corner, but the roadside hedge would remain. Even though the side elevation of the house in plot 1 would probably be noticeable from the road, the adjacent section of Maes-y-Ffynnon would retain its 'green corridor' character. The overall visual impact would be acceptable.

Landscape and trees

Aside from trees, which are discussed separately (below), the proposed indicative landscaping is acceptable. Together, the turning head and the adjacent parking spaces would occupy a large area in front of the buildings. However, the adjacent front gardens and small areas of landscaping would soften this part of the site. Overall, the proposed mix of hard and soft surfaces would have an acceptable effect on the character and appearance of the site and the street. Nonetheless, to ensure that the turning head would have a high-quality finish, planning permission should carry a standard condition about 'hard' and 'soft' landscaping (including boundary features) (**condition 11 refers**).

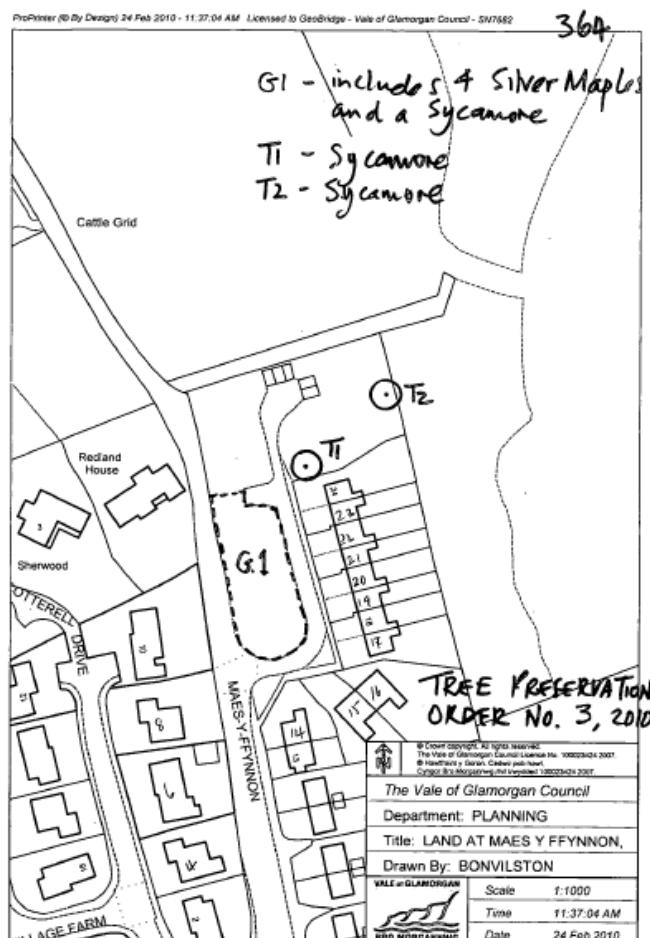
The Trees, Woodlands, Hedgerows and Development SPG places trees in the following categories:

- Category A: Trees of high quality and value capable of making a significant contribution to the area for 40 or more years;
- Category B: Trees of moderate quality or value capable of making a significant contribution to the area for 20 or more years;
- Category C: Trees of low quality, adequate for retention for a minimum of 10 years expecting new planting to take place; or young trees that are less than 15 cm in diameter which should be considered for re-planting where they impinge significantly on the proposed development;
- Category U: Trees which are in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years. Such trees may however have a conservation value which might be desirable to preserve.

The SPG states that (see paragraph 7.3.3):

Trees which are protected by a TPO or classified within retention category A or B in a BS5837: 2012 survey should be retained on the site. If it is proposed to remove any A or B category trees, then the Council will require the applicant to demonstrate how the removal is necessary and outline any mitigation measures to be provided.

A tree preservation order (TPO No.3 2010 – Land at Maes-y-Ffynon, Bonvilston) covers two trees in the northern part of the site and a group of trees in the southern part of the site. Below is an extract from the TPO plan:



The concerns raised at the Planning Committee on 15th July 2020, over the loss of trees and perceived inadequacy of their replacement on site have been considered and set below.

The proposed development site has been subject to a Tree Survey which assess the quality of the trees on the site. The majority of trees on the site were categorised as U or C.

The Council's Trees, Woodlands, Hedgerows and Development SPG states "If it is proposed to remove any A or B category trees, then the Council will require the applicant to demonstrate how the removal is necessary and outline any mitigation measures to be provided." (VoG, p.21, 2018). In the first instance any loss of category A and B trees should be replaced at a 2:1 ratio within the development site.

The Tree Survey identified that the following seven trees on the site were Category B and would be lost to facilitate the development; T2, T3, T13, T19, T30, T34 and T35.

This would mean the development proposal should include 14 new trees within the scheme in line with the SPG (based on a 2:1 replacement). The original plans included 8 replacement trees which was an under provision, however, the amended plans now include a total of 12 new replacement trees. Although this still is an under provision of 2 replacement trees, it is considered that the amended layout appropriately balances the need to have useable private and public amenity space and having regard to the existing trees which are being retained on the site and the space required for the existing and proposed trees to grow and not be compromised.

The landscaping condition (discussed above, in 'Landscaping' - **Condition 11 refers**) will secure as part of the wider scheme of landscaping a detailed scheme of replacement tree planting which shall be in line with the proposed tree planting shown in the Block Plan . A separate condition is also considered necessary to protect the trees marked for retention on the application documents (**Condition 17 refers**) to ensure that they are protected during the construction phase of development (including any site clearance)

Impact on neighbours

The neighbours most likely to be affected by this proposal are those at Redland House (to the west) and 24 Maes-y-Ffynon. The other residents of the cul-de-sac might notice an increase in activity and movement in the street, but the effect would not amount to material planning harm. Crucially, the proposal would not affect their natural light, outlook or privacy.

Redland House

Redland House and the application site are on opposite sides of Maes-y-Ffynon. The proposed house (Plot 1) would be roughly 14 metres from Redland House, with its western (side) elevation facing the neighbours. From this distance, the new house would not have a substantial effect on the neighbours' natural light or visual amenity. However, a first-floor bedroom window is proposed in the side elevation, and this would allow occupants to overlook the garden of Redland House. To protect the neighbours' privacy, a condition requiring first-floor window in the western (side) elevation of Plot 1 to have obscure glass and non-opening sections below eye level (taken as 1.7 metres above floor level) (**condition 12 refers**).

24 Maes-y-Ffynon

The houses in plots 7 and 8 would be roughly 21 metres from 24 Maes-y-Ffynon, which does not have habitable-room windows in its northern (side) elevation. From this distance, the new houses would not affect the neighbours' natural light, outlook or privacy.

The flats in plots 9 and 10 would be roughly 14 metres from 24 Maes-y-Ffynon and roughly three metres from its back garden. The side elevation of the new building would face the neighbours. Each flat would have a living/dining-room window in this elevation, but each window would have obscure glass and no opening sections. This means that the neighbours would not be exposed to overlooking (nonetheless, planning permission should be conditioned to ensure that the non-opening obscure glazing is installed and retained thereafter (**condition 12 refers**)).

The building in plots 9 and 10 would be north of no. 24's garden. It would not, therefore, cast a shadow on the neighbours' garden.

The side elevation of the new building (plots 9 and 10) would not be parallel to the northern (side) boundary of no. 24. As a result, the distance between the building and the neighbours' garden would range from less than three metres to nearly five metres. From these distances, a two-storey side elevation, with a gable end forming the upper storey, would not appear overbearing to the neighbours.

Future occupants (plots 9 and 10)

A first-floor side window in plot 8 would allow occupants to overlook the shared garden of plots 9 and 10. To protect future occupants' privacy, a condition about non-opening sections and obscure glazing should be used (**condition 12 refers**).

Summary and conclusion

The development proposal, subject to conditions, would have an acceptable effect on neighbours' residential amenity, judged in terms of natural light, outlook, peace and quiet, and privacy.

Highways

Under this proposal, the existing road would be improved in the following ways:

- The radius of the bend near the junction would be changed;
- The section of road near the junction would be widened to six metres;
- The rest of the cul-de-sac would be widened to 5.5 metres;
- A rumble strip would be created just before a new turning head.

In addition, a new turning head (with tactile paving and a dropped kerb) and 14 parking spaces would be created. The garages that once served the existing houses in the street were demolished some time ago and as a result, residents now park their cars on the carriageway.

Having considered parking demand, traffic levels and public safety, the highway authority have not objected to the amended proposal.

Whilst the rumble strip was initially removed by the applicant, in the first set of amended plans following deferral by planning committee, it has now been reinstated (at the request of the highway engineer) albeit, at a narrower width and slightly re-sited so as not to conflict with any pedestrian crossing point.

The developed site would have 14 parking spaces, each of which would meet the Parking Standards SPG's requirements for a standard parking space (2.6 metres x 4.8 metres). The Parking Standards SPG recommends that 'off-street multiple disabled parking bays' have 1.2-metre-wide access zones between each bay. The proposed parking spaces are not the same as parking bays, which tend to be found on commercial sites.

Concern was raised at the previous Planning Committee in relation to extending the width of approach footpaths to allow disabled access to proposed buildings and linking to parking spaces.

Whilst these concerns have been noted, no objection has been received from the highway engineer on this ground. The applicant has however assessed the implications of widening the footpaths and stated that this would result in a detrimental impact upon the proposed drainage scheme which has already been approved by the SAB Authority and provides biodiversity enhancements to the scheme through the use of sustainable drainage systems such as rain gardens.

It should be noted that half of the parking spaces provided within the scheme align with an approach footpath allowing occupants to use the pathway as additional space when entering and exiting their vehicle. In addition, the proposed properties and amended layout has been built to the Welsh Government standards for affordable housing which are based upon the Lifetime Home Standards (<https://gov.wales/sites/default/files/consultations/2020-07/beautiful-homes-and-spaces.pdf> refers).

It should be noted that the Council has approved affordable housing schemes which have followed the same standards used to produce the amended layout. The applicant is not aware of any contextual changes in planning policy or design requirements which would warrant exceeding the standards outlined by Welsh Government for affordable homes that would require amending the proposed scheme further.

However, the applicant has included additional tactile crossing areas within the scheme to improve accessibility to the proposed properties.

Since reporting the application to Planning Committee on 15th July 2020, the Council's SPG on Parking Standards has been updated to reflect the guidance within Future Wales: The National Plan 2040. In relation to residential parking, the SPG encourages developers to provide EVCP wherever appropriate, at a ratio of 10% of all parking spaces provided. The agent has confirmed that the majority of parking space could be upgraded to provide EV charging with a charging point placed to the building frontage but this has not been factored into the costing for the scheme. However, it is considered the design of the development is future proofed to allow EV charging points at a future point in time.

Having regard to the above, whilst the highway and parking layout is considered acceptable, planning permission should carry a condition requiring the applicant to submit full engineering details and provide the parking spaces before any of the approved dwellings are occupied (**condition 14 refers**).

Ecology

The application documents include an ecological assessment (dated October 2018), a bat activity survey report (dated September 2015) and a mitigation strategy for great crested newts (dated January 2020). The ecological assessment provides more recent evidence about bats than the bat activity survey report.

Together, the ecology documents explore the proposal's effect on bats, birds, great crested newts, dormice, otters and badgers, amongst other creatures.

The author of the ecological assessment reached the following conclusion:

On the basis of the evidence currently available it is ... concluded that the site is not unacceptably constrained by biodiversity issues. There may be some potential for impact to protected species such as common reptiles, nesting birds and foraging bats, but these should be readily amenable to mitigation. Appropriate mitigation and enhancement measures are recommended.

The application documents indicate that **bats** use the site for foraging and 'commuting', but do not live on the application site.

The application documents state the following about **great crested newts**:

NRW have advised that development 'is likely to harm or disturb GCN'; [a] European Protected Species derogation licence will therefore be required for the proposed development, once planning consent is in place.

The ecology officer stated that:

- The proposal would bring about an 'unacceptable loss of mature trees with inadequate replacement within the development';
- 'A reptile strategy will be required which will detail how reptiles will be protected during the construction and operational phases. This strategy can be conditioned as a "Prior to Commencement" condition;
- 'A biodiversity strategy scheme will be required, but can be conditioned as a "Prior to Commencement" condition if necessary;'
- 'We note that the bat survey of the high potential trees was carried out in 2015, this survey is now out of date and will require a repeat survey'; and
- 'We note the submission of the GCN [great crested newts] strategy and confirm this is adequate. However, as a licence will be required, the planning officer will need to undertake the (Habitats Regulations) 3 tests at the planning determination stage and document the results of this.'

Natural Resources Wales (NRW), having examined the latest application documents, does not object to the proposal. It states:

The amended [mitigation strategy for great crested newts] provides an adequate basis upon which to assess the proposal and its impacts on Great Crested Newt. We therefore have no objection to the proposal.

NRW stated that the planning authority must subject the proposal to the three licensing tests set out in the Conservation of Habitats and Species Regulations 2017. It also pointed out that the applicant would have to apply for a European Protected Species (EPS) licence under a separate (non-planning) application.

The Countryside team examined the updated bat survey and did not object to the proposal. Nonetheless, the ecology officer's concerns are addressed below in order.

Loss of mature trees

The loss of mature trees is necessary for development purposes, and the proposal's social benefits outweigh the visual harm. Furthermore, the amended plans, which the ecology officer was not able to see before leaving the council, indicate that replacement planting would exceed the two-for-one target set out in SPG.

Reptile strategy

Planning permission should carry the suggested condition (**condition 13 refers**).

Biodiversity enhancement

Planning permission should carry the suggested condition (**condition 18 refers**).

Bat survey

The ecological assessment includes an update to the bat survey carried out in 2015. NRW has not expressed any concern over the proposal's effect on bats (though the applicant would have to apply for a European Protected Species licence).

Great crested newt

The planning authority will subject the proposal to the licensing tests (see below).

Licensing tests

The three licensing tests state that a development proposal which would disturb or displace a European Protected Species (EPS) will be acceptable only if:

1. The purpose of the work is for preserving public health or public safety or other imperative reasons of over-riding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;
2. There is no satisfactory alternative;
3. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range.

First test

The development proposal would not preserve public health or public safety, but it does accord with the development plan's policies on new housing in defined settlements. It would bring social and economic benefits to the rural area through the provision of affordable housing. Moreover, managing development in accordance with the statutory development plan is undoubtedly a matter of public interest.

Second test

The development proposal complies with the LDP's strategic policies on new housing in defined settlements. The proposed dwellings are compatible with existing houses, whereas a non-residential use might give rise to some conflict. In social terms, moreover, the creation of 10 affordable dwellings weighs heavily in favour of the proposal.

The 'do nothing' approach is not especially desirable. Evidence shows that the land is not needed as public open space, and if it were left undeveloped it might become unsightly over time, particularly the area where the garages used to be. Furthermore, vacant land would not have the same positive social and economic effects as the development proposal.

For the above reasons, there appears to be no satisfactory alternative to the development proposal.

Third test

NRW has stated that the development proposal would have an acceptable effect on the favourable conservation status of the EPS.

For the above reasons, the development proposal passes the three licensing tests. To protect ecological assets, the planning authority should use the conditions (reptiles and biodiversity enhancement) suggested by the ecology officer.

Drainage

Surface water

The council's drainage officers state that the developer would have to apply for 'SAB' approval through a non-planning procedure. Planning permission need not, therefore, carry a condition about drainage arrangements for surface water.

Foul water

Dŵr Cymru Welsh Water requests that planning permission carry conditions requiring the applicant to:

- Submit details of drainage arrangements for the site; and
- Assess the proposal's effect on the Bonvilston (East) Wastewater Treatment Works and, if necessary, prepare a scheme of reinforcement works.

Planning permission should carry the suggested conditions (**condition 4 and 5 refer**).

Other Matters

Environmental-health officers recommend that planning permission carry conditions about:

- a construction environment management plan (CEMP);
- unforeseen contamination, imported soil, imported aggregates and the use of site-won materials.

The suggested conditions have been used (**conditions 7, 8, 9 and 10 refer**). To protect the amenity of existing residents, a condition about working hours should also be used (**condition 6 refers**).

Planning obligations

Paragraph 5.8 of the Planning Obligations SPG states:

On 5th September 2016, Cabinet (Minute C3271) agreed that schemes for 100% affordable housing developments of twenty five units or less delivered either by the Council or its four Housing Association Partners (Hafod Housing, Newydd Housing, United Welsh Housing and Wales & West Housing) will be exempt from paying financial planning obligations. For more information, please refer to the Affordable Housing SPG [emphasis added].

This development proposal does not, therefore, need to yield planning obligations.

Planning Policy Wales states the following about affordable housing (see paragraph 4.2.26):

Affordable housing includes social rented housing owned by local authorities and RSLs and intermediate housing where prices or rents are above those of social rent but below market housing prices or rents.

TAN 2 provides the following definition of ‘affordable housing’:

[Housing] where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers.

It states that affordable housing includes ‘social rented’ housing and ‘intermediate’ housing.

The application documents indicate that the dwelling units would fall into the ‘social rented’ category.

Planning permission should carry a condition to ensure that the dwellings would be built and then retained as affordable units (**condition 15 refers**).

Village-green

As stated above, Planning Committee resolved to defer the decision on the planning application while the subsequent village green application submitted on the development site was resolved.

The proposed development site referred to as Land to the North of Maes Y Ffynnon, was subject to an application to register the land as a Town or Village Green under Section 15 of the Commons Act 2006 (App No.01/2019/VG50- refers).

An Independent Inspector (James Marwick) was instructed by the Vale of Glamorgan Council, in its capacity as the relevant Registration Authority, to hold a non-statutory public inquiry in relation to the Application and to provide findings and recommendations by way of a written report for consideration by the Registration Authority.

The Inquiry was held over the course of a single day on 19th April 2021 and the Report was completed on the 6th June 2021. The Report concluded:

- a) Registration would be incompatible with the statutory purposes for which the Land is held by the Objector.
- b) User has been “by right” rather than “as of right” of the physical “green” which is the only part of the Land over which there has been sufficient user for lawful sports and pastimes.

This resulted in a recommendation to the Vale of Glamorgan Council to dismiss the Village Green application based on the reasons above.

The Public Protection Licensing Committee is the delegated body within the Council responsible for making a decision on the Village Green Application. The Village Green Report and its recommendations were considered by Public Protection Licensing Committee on Tuesday, 15th June 2021 where it was resolved to accept the recommendation of the Village Green Report and dismiss the Village Green application.

RECOMMENDATION

Deemed planning consent be GRANTED subject to the following condition(s):

1. The development shall begin no later than five years from the date of this decision.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following approved plans and documents:

- A001 Rev B (Site Location Plan);
- A002 Rev M (Site Layout)
- A003 Rev D (Housetype 1);
- A004 Rev D (Housetype 2);

- A005 Rev D (Housetype 3);
- A006 Rev D (Context elevation);
- A009 Rev M (Block Plan)
- A011 (Shed Detail);
- the protection methods set out in the document entitled 'Tree Survey at Maes y Fynnon, Bonvilston' (Treescene Arboricultural Consultants, 21st January 2019).

Reason:

For the avoidance of doubt as to the approved development and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

3. Notwithstanding the submitted details, before any external materials are used on the site, samples of materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details before any of the approved dwellings are occupied. The approved materials shall then be retained and maintained on the site for as long as the approved dwellings exist.

Reason:

To safeguard local visual amenities, as required by policies SP1 (Delivering the Strategy), MD2 (Design of New Development) and SP10 (Built and Natural Environment) of the Local Development Plan.

4. No development shall take place until:
 - i) a survey to establish the current flow and load received at Bonvilston (East) Wastewater Treatment Works has been undertaken; and
 - ii) an assessment of the impact of the development hereby approved on the Wastewater Treatment Works having regard to the results of the flow and load survey has been undertaken and agreed with the local planning authority; and
 - iii) if necessary, a scheme of reinforcement works for the Bonvilston (East) Wastewater Treatment Works has been agreed with the local planning authority in order to allow it to accommodate the foul discharges from the development hereby approved without increasing the risk of breaches to the discharge consent for the Bonvilston (East) Wastewater Treatment Works.

No dwellings shall be occupied until the agreed scheme has been completed.

Reason:

To prevent hydraulic overloading of the public sewerage system, protect the health and safety of existing residents, ensure no pollution of or detriment to the environment and to ensure the site can be effectively drained.

5. No development shall commence until a foul water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The

scheme shall provide for the disposal of foul water flows and thereafter implemented in accordance with the approved details prior to the occupation of the development.

Reason:

To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, in accordance with policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

6. No construction work associated with the development hereby approved shall take place on the site on any Sunday or Bank Holiday or on any other day except between the following hours:

Monday to Friday: 0700 – 1900

Saturday: 0700 – 1700

Unless such work is:

- (a) associated with an emergency (relating to health and safety or environmental issues);
- (b) carried out with the prior written approval of the Local Planning Authority.

Reason:

To safeguard the amenities of local residents, and to ensure compliance with the terms of policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

7. No development shall commence, including any site clearance or works of demolition, until a Construction Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall include the following details:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control and mitigate the emission of dust, smoke, other airborne pollutants and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- ix) lighting;
- x) management, control and mitigation of noise and vibration;
- xi) odour management and mitigation;
- xi) diesel and oil tank storage areas and bunds;
- xii) how the developer proposes to accord with the Considerate Constructors Scheme (www.considerateconstructorsscheme.org.uk) during the course of the

construction of the development; and
xiii) a system for the management of complaints from local residents which will incorporate a reporting system.

The construction of the development shall be undertaken in accordance with the approved CEMP.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place until a scheme to deal with the contamination found has been submitted to and approved in writing by the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the LPA within 2 weeks of the discovery of any unsuspected contamination.

Reason:

To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

9. Any topsoil (whether natural or manufactured), subsoil, aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with Pollution Control's Imported Materials Guidance Notes. Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the LPA.

Reason:

To ensure that the safety of future occupiers is not prejudiced in accordance with policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

10. Any site won material including soils, aggregates, recycled materials shall be assessed for chemical or other potential contaminants in accordance with a sampling scheme which shall be submitted to and approved in writing by the Local Planning Authority in advance of the reuse of site won materials. Only material which meets site specific target values approved by the Local Planning Authority shall be reused.

Reason:

To ensure that the safety of future occupiers is not prejudiced in accordance with policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

11. Before development begins, including any demolition or site clearance, details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:

- earthworks showing existing and proposed finished levels or contours;
- retaining structures;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials.

Details of soft landscape works shall include:

- planting plans (in which the number of replacement trees must at least match the number of replacement trees shown on drawing A009 Rev L (Block Plan));
- written specifications (including cultivation and other operations associated with plant and grass establishment);
- schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate;
- an implementation programme (including phasing of work where relevant).

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner.

The 'hard' and 'soft' landscaping shall be retained and maintained (including replacement planting, if necessary) in accordance with the approved details for as long as the approved development exists.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment) and MD2 (Design of New Developments) of the Local Development Plan.

12. Notwithstanding the approved plans, in plots 1, 8, 9 and 10 (identified on drawing A002 Rev M), any part of any first-floor side window that is below 1.7m in height above the level of the floor in the room that it serves shall be obscurely glazed to a minimum of level 3 of the "Pilkington" scale of obscuration and fixed pane at the time of installation, and so retained at all times thereafter.

Reason:

To protect the privacy of neighbours, in accordance with policy MD2 (Design of New Development) of the Local Development Plan.

13. Notwithstanding the submitted details, no development (including site clearance) shall commence until a wildlife and habitat protection and management plan has been submitted to and approved in writing by the local planning authority. The wildlife and habitat protection plan shall include:

- Details of, and a schedule for, sensitive site clearance with respect to reptiles, bats and breeding birds;
- A reptile strategy explaining how reptiles will be protected during the construction and operational phases;
- Details of newt-friendly drainage;
- A plan showing wildlife and habitat protection zones, if appropriate;
- Details of development and construction methods within wildlife and habitat protection zones and measures to be taken to minimise the impact of any works;
- A lighting scheme for the site in order to ensure minimal light spillage onto adjoining vegetation; and
- A minimum of 100mm gap at the bottom of all fencing used on site.

The protection and management plan shall then be completed in accordance with the timings approved by the local planning authority.

Reason:

In the interests of ecology and to ensure compliance with policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MG19 (Sites and Species of European Importance) and MD9 (Promoting Biodiversity) of the Local Development Plan.

14. Notwithstanding the approved plans, no development shall commence until full engineering details of the roadworks, parking areas and turning areas shown on drawings A002 Rev M and/or A009 Rev M have been submitted to, and approved in writing by, the planning authority. No dwelling shall be occupied until the roadworks, parking areas and turning areas have been completed in accordance with the approved details. The parking spaces shall thereafter be kept available for the parking of vehicles for as long as the approved development exists.

Reason:

To ensure that the development proposal will have an acceptable effect on local highway safety and the amenity of the area, in accordance with policies MD2

(Design of New Development) and MD5 (Development within Settlement Boundaries) of the Local Development Plan.

15. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of the Welsh Government Technical Advice Note 2 on Affordable Housing or any future guidance that replaces it.

Reason:

In order to ensure that the site delivers appropriate provision of affordable housing to meet the identified need and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy), SP4 (Affordable Housing Provision), MG4 (Affordable Housing) and MD4 (Community Infrastructure and Planning Obligations) of the Local Development Plan.

16. Notwithstanding the approved plans and the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwelling house. The only boundary features/means of enclosure shall be those that have first been submitted to, and approved in writing by, the planning authority. The approved boundary features/means of enclosure shall be erected before any of the approved dwellings are occupied. The boundary features/means of enclosure shall be retained and maintained in accordance with the approved details at all times thereafter.

Reason:

To safeguard local visual amenities, and to ensure compliance with policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

17. No development shall take place, nor any demolition works or site clearance, until there has been submitted to and approved in writing by the Local Planning Authority details of a scheme for the protection of all trees shown to be retained on drawing number A009 Rev L (Block Plan). The approved scheme of tree protection shall be carried out during the course of construction, including any site clearance.

Reason:

In order to avoid damage to trees on or adjoining the site which are of amenity value to the area and to ensure compliance with policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

18. Prior to the commencement of development, details of a scheme of bio diversity enhancements shall be submitted to the Local Planning Authority. Within 6 months of the completion of the development or first beneficial occupation (whichever is the sooner) the agreed scheme of bio diversity enhancements shall be implemented/completed on site, which shall thereafter be retained, in accordance with the agreed details.

Reason:

In the interests of ecology and to ensure compliance with Policies SP1 (Delivering the Strategy) and MG9 (Promoting Biodiversity) of the Local Development Plan.

REASON FOR RECOMMENDATION

The decision to recommend that planning permission be granted has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026 and Future Wales – the National Plan 2040.

Having regard to policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MG1 (Housing Supply in the Vale of Glamorgan), MD1 (Location of New Development), MD2 (Design of New Development), MD3 (Provision for Open Space), MD4 (Community Infrastructure and Planning Obligations), MD5 (Development within Settlement Boundaries), MD6 (Housing Densities), MD7 (Environmental Protection), MD8 (Historic Environment) and MD9 (Promoting Biodiversity) of the Vale of Glamorgan Adopted Local Development Plan 2011-2026 and Future Wales – the National Plan 2040, the development proposal area acceptable and would have an acceptable effect on visual amenity, residential amenity, highway safety, ecology, drainage and environmental health.

It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

NOTE:

1. **The contamination assessments and the effects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for**
 - (i) determining the extent and effects of such constraints;**
 - (ii) ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates/ soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site:**
 - Unprocessed / unsorted demolition wastes.
 - Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
 - Japanese Knotweed stems, leaves and rhizome infested soils.

In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and

(iii) the safe development and secure occupancy of the site rests with the developer.

Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land. The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land can be considered free from contamination.

2. New developments of more than one dwelling or where the area covered by construction work equals or exceeds 100 square metres as defined by The Flood and Water Management Act 2010 (Schedule 3), will require SuDS Approval Body (SAB) approval prior to the commencement of construction.

Further information of the SAB process can be found at our website or by contacting our SAB team: sab@valeofglamorgan.gov.uk

3. Where any species listed under Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2017 is present on the site, or other identified area, in respect of which this permission is hereby granted, no works of site clearance, demolition or construction shall take place unless a licence to disturb any such species has been granted by the Welsh Assembly Government in accordance with the aforementioned Regulations.

4. Warning: An European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.

To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/conservation-biodiversity-and-wildlife/european-protected-species/?lang=en>

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of

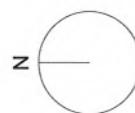
development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

Appendix 5

23/07/2019 11:09:24

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Do not scale this drawing. Check all dimensions on site. Any discrepancies to be reported back to the Architect for clarity.



1 Standard for planning applications

2 Standard planning consent drawing

3 Site location plan

4 Site plan

5 Site location plan

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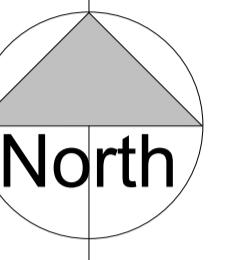
287 Site location plan



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Notes:

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Schedule of accomodation

- 4no. 2b4p Houses
4no. 1b2p Flats
2no. 1b2p 'over 55' Flats

Total 10 Units

2 parking spaces per house

1 Parking space per flat		Date
G	FFLs & Site levels updated	23.09.2019
F	Updated to avoid clash with existing fenceline	19.09.2019
E	Existing road adjusted	04.09.2019
D	Updated for planning submission	23.07.2019
C	Updated following comment from planning	18.01.2019
B	Updated inline with engineering drawings	15.01.2019
A	Updated following design review	07.01.2019
Rev	Revision	By

Client:

Project:

Maes-Y-Ffynnon | Bonvilston

Job Number: L525

Date: 20.07.2019

Drawn by: MM

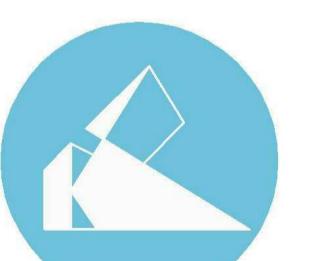
Site layout

Revision: DBAET

Scale: 1 : 100 @ A1

Drawing Status:

PLANNING



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D	FFLs & Site levels updated	23.09.2019
C	Updated for planning submission	23.07.2019
B	Updated inline with engineering drawings	15.01.2019
A	Updated following design review	07.01.2019
Rev	Revision	By Date



Project: **Maes-Y-Ffynnon | Bonvilston**

Job Number: **L525**

Date: **20.07.2019**

Drawn by: **Author**

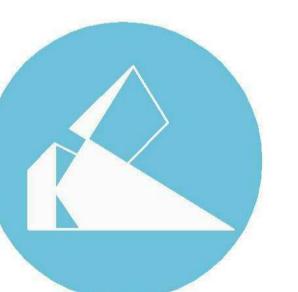
Dwg No: **A006**

Context elevation

Revision: **D**

Scale: **1 : 100 @ A1**

Drawing Status: **PLANNING**



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Notes:
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B	PFLS & Site levels updated	23.09.20 19
A	Updated inline with engineering drawings	15.01.20 19
Rev	Revision	By Date

Client:
VALE of GLAMORGAN
BRO MORGANNWG

Project:
Maes-Y-Ffynnon | Bonvilston

Job Number:
L525

Date:
20.07.2019

Drawn by:

Dwg No:
A008

Perspective view 2

Revision:
B

Scale:
@ A3

Drawing Status:

PLANNING



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Notes:
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B	PFLS & Site levels updated	23.09.20 19
A	Updated inline with engineering drawings	15.01.20 19
Rev	Revision	By Date

Client:
VALE of GLAMORGAN
BRO MORGANWY

Project:
Maes-Y-Ffynnon | Bonvilston

Job Number:
L525

Date:
20.07.2019

Drawn by:

Dwg No:
A007

Perspective view 1

Revision:
B

Scale:
@ A3

Drawing Status:
PLANNING



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